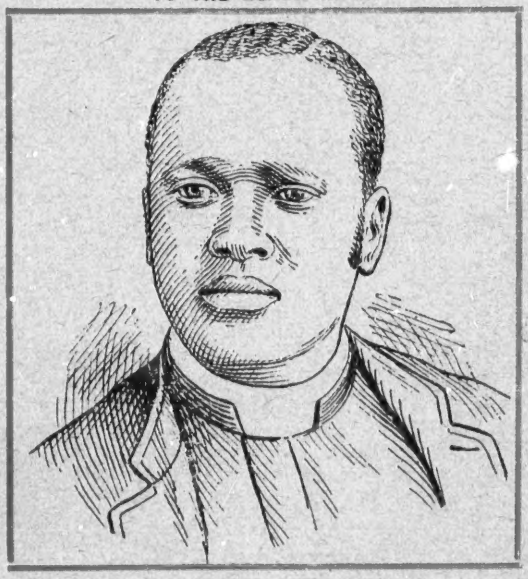
THE JIM CROW CAR:

...OR...

DENOUNCEMENT OF INJUSTICE METED OUT TO THE BLACK RACE.



By REV. J. C. COLEMAN

TORONTO, ONT.
Hill Printing Co., 48 Richmond Street West.

1898.

THE JIM CROW CAR;

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DENOUNCEMENT OF INJUSTICE METED OUT TO THE BLACK RACE.

Supreme Court Decision, by His Lordship Bishop H. M. Turner, Largely Quoted and Elucidated—Clippings from Miss Ida B. Wells Barnett's "The Reason Why"—Grave State of Affairs in the Southern States—Incidents on Railroads—Public Conveyances—Employment, Etc.

BY

REV. J. C. COLEMAN,

Formerly Illustrating Lecturer on the "Progress of the Negro of the South," "Bishop Taylor's Mission to South Africa," "Biblical Characters," "A Drunkard's Doom," Etc.

TORONTO, ONT.:

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1898.

PREFACE.

My opposition to injustice, imposition, discrimination and prejudice, which have for many years existed against the colored people of the South, has led to this little book. In many parts of America the press has been furnished with "matter" for defending the colored people, through the medium of "Coleman's Illustrated Lectures." By request of my many auditors, some of whom being leading elements of the Northern States and Canada, this volume is published. Many persons interested in the welfare of the negro, have sought a more elaborate book on the Southern horrors. Therefore, the manner in which the colored people are treated, and the laws devised against them from time to time, are the chief subjects.

My endeavour to furnish those concerned in human welfare, with Southern railroad affairs, lynchings, etc., so far as the so-called law governing the white and black races is concerned, is evinced in the experience of eight years touring on various lines throughout the South. My statements being authentic and impartial, I have noted some incidents occurring on roads which I have travelled, amid peculiar circumstances, which I hope will prove serviceable to the reader. I have quoted Bishop Turner's "Supreme Court Decision," and Mrs. Ida B. Wells Barnett's "The Reason Why," largely because

they contain facts *agreeing* very much with my experience and judgment. Opinions of leading Afro-American journals have been expressed as a unanimous sentiment of the race, regarding their loyalty to the flag under which they live and serve. The main object of this book is to create within the hearts of those who may read it, sympathy for the colored people of the South So many unreasonable things have been alleged against the negro, that he now demands a reasonable *consideration.*

The Southern press has made scores of enemies for the entire race, and continues doing so. The "Rape" Bell has been sounded all over the world to degrade the negro and impede his rapid progress. Why did the negro not commit "rape" during his dark days of slavery? In slavery he was not allowed to know A from B, or 1 from 2. This means that a slave was esteemed a little higher than the cattle. Slavery is illiteracy. "God is a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate Him." "The people of the Southern States have enslaved the colored people; for 250 years held them a small degree above the dumb brute. To-day they lynch the negro, burn him, and refuse him justice on railway cars. God will visit the Americans. If not the 3rd generation, the 4th will be made repent, and humiliate to the black man."—*Rev. J. C. Tolmie, B.A.*

The fact that there are in the South about 20,000 teachers, 238,000 scholars, 150 schools for advance

education, and seven colleges with negro faculty, is sufficient proof itself that the current reports of "rape" are not true. There are about 8,000,000 colored people in the United States, and about half that number are Church goers, which proportionately far exceeds their white brethren. The people who have been prejudiced against the colored race by Southern newspapers, have never considered that there are no daily papers managed by the colored people to defend their side of the case. The weekly papers of colored editorship are not read by the white race. Then how can the considerate people who would know of the perpetual reports, arrive at a definite conclusion as to whether they are right or wrong? There are two sides to a case, and each side deserves scrutineering. No just judge will hear the plaintiff, and drive the defendant from the Court room door. *Negro* rights have been advocated, and are now being advocated by the British press, and by true, sympathetic ministers of the gospel of both the North and South. I pray that such a thirsting after righteousness will emanate from the Churches in America that will cause the world to see that Christianity predominates from the chilly plains of the North to the smoky regions of the South.

"Lord, while for all mankind we pray,
Of every clime and coast,
Oh, hear us for our precious race,
The race we love the most."

JOHN CLAY COLEMAN.

Toronto, Ont., Jan. 15th, 1898.

INTRODUCTION.

Rev. J. Clay Coleman was born 4 miles south of Durant, Holmes Co., Mississippi, Feb. 1st, 1876. Lived in Goodman, Holmes Co., Miss., until 1888. His parents were slaves on Tome Bigbee River, Alabama, a number of years, and afterwards sold to Botus, at Lexington, Holmes Co., Miss.; from Botus to Fletcher Harrington, at Goodman.

Peter Coleman, the father of J. C. Coleman, was very much devoted to his family, and took care to see that each of his seven children was to some extent educated. John Clay Coleman proceeded to the study of law; but by divine providence he was led to the study of the Bible, and became a minister and travelling Biblical illustrating lecturer. Mr. Coleman and the bulk of his relatives are Methodists, the majority of whom being members of the same Church at Georgeville, Miss. Mrs. Rowena Coleman, the faithful mother of Mr. Coleman, prayed that his calling would be to preach the gospel. Her fervent prayers are heard and answered. In 1887, J. C. Coleman had the management of the country mail route from Goodman to Cocksburg, Miss. Began travelling as lecturer in 1888. In 1892 he travelled the south through; visited the Columbian Exposition at Chicago in 1893, and appeared at the

Turkish Panorama of the Holy Land, in the interest of "Coleman's Great Biblical Exhibition." This unique exhibition was methodized by Mr. Coleman in his youth, and had developed at this crisis into the most instructive mode of illustrating the Scriptures to Bible students. His liberality toward different institutions the past eight years has marked him a philanthropist. He has sacrificed time, talent, and "earthly store" to the advancement of his people. When leaving the World's Columbian Exposition in 1893, he was fully determined to impart his remaining years to missionary work in Africa. He entered Canada in the "power of the Holy Spirit," was ordained minister of the gospel at the Annual Conference of the A M. E. Church, by Bishop H. M. Turner, at Windsor, Ont., Sept. 1st, 1895. Married Miss Hattie E. Johnson, of Halifax, N. S. Matrimony performed by Rev. James M. Henderson, M.A., D.D., President of Morris Brown College, Atlanta, Ga., Jan. 17th, 1894.

His wife being a consistent Church woman, has added well to his success in the ministry. He was educated for the ministry at Victoria University, Toronto, Ont., being the first colored student in this great University since its establishment in the City of Toronto. He was received with a cordial cheering.

His fame as an illustrating lecturer is extensive. Having collected from the Southern Horrors scenic views, and resplendently presented them by use of stereopticons before immense audiences, chiefly white

people, who desired direct and accurate information of the condition of the "negro in the South," Mr. Coleman has caused a sensation everywhere seen and heard. Persons have arose after his lectures and said, "Mr. Chairman, I move that a vote of thanks be tendered Professor Coleman for his excellent lecture and impressive views on the progress of the colored people in the Southern States. He has indeed given us facts concerning the outrages on the people of his nationality, illustrated by pictures taken from natural life." Voices could be heard exclaiming, "Hear! hear!!" in all parts of the audience. Amid these demonstrations a unanimous vote would be rendered, and an immediate protest against the unfair burdens lavished upon the negro in the South would warmly ensue.

Mr. Coleman learned in his early public career, that the negro journals were not read by white people, and it was his highest ambition to carry the news to them. He is not, therefore, as prominent in his own race as he would be had he confined himself solely to them. That the Rev. Mr. Coleman is an original race man, is evidently seen in some notes on his boyhood traits, and his continuous advancement to a renowned defender of peace, prosperity, and race protection, both home and abroad. The leading elements of Goodman attest these facts in a meeting held in 1888, in honor of his departure: "We the undersigned citizens of Goodman know Prof. John C. Coleman to be a polite and inoffensive gentleman. We further know him to be of religious and high

moral character, and trustworthy in all of his dealings. We hope his aim set forth, to achieve greater victories for his people, will be successfully accomplished. Signed, J. D. Powers, W. D. Waugh, L. W. Houghes, Robert Ford, A. S. Brumby, M.D., Rev. J. L. Crawford, P. Ward, J. M. Moody, W. W. Crawford, W. C. Graham, C. Davis."

The reader of "THE JIM CROW CAR" will note that the author has not tried to show the "dark side" of his race. Illustrations of the poor unfortunate ex-slaves are not used, as in some books, touching the subjects herein.

TORONTO, January 15, 1898.

THE JIM CROW CAR.

CHAPTER I.

EIGHT YEARS' TRAVEL — GENERAL OBSERVATION — INFERIOR ACCOMMODATION—DISCRIMINATION—IMPOSITION—IGNORANCE OF DECENCY—PREJUDICE OCCUPIES THE HIGHEST SEAT—CHRISTIANITY SILENT.

During eight years' travel on different railroads in the Southern States, I strictly observed:

1. That it is the duty of employees to see that inferior accommodations in every "colored" car, and in every "colored" waiting room be arranged. This unjust measure is heretically endorsed by the white passengers of all classes.

2. That Discrimination between the white and black races is designed by "law," and rigidly enforced on the colored passenger, and a mere sham to the white passenger.

3. That Imposition upon the colored passenger, in the filthiest, smoky and inferior cars is participated

in by the "highest white gentleman" and the lowest "ignoramus Hill Billy."

4. That *Ignorance* of Decency, politeness, modesty and morality of the colored passenger is maintained.

5. That Prejudice against the negro race, regardless of characteristics, prevails in general officers—brakemen and depot agents—and in case of a law suit for that which is actually and properly due, it occupies the highest seat in the Court room.

6. That a Christian minister is forced to smoke and associate with the worst of humanity, by his white brother. Christianity in this respect is inconsistent with that preached and practiced in India, China, Japan and Africa.

Early Experience.

About one mile from the Coleman plantation lived Mrs. Covington, commonly known as "the Widow Covington." She owned about 300 acres of cultivated and uncultivated land, left to her by her deceased husband. The land being valued at from one dollar and twenty-five cents per acre to ten dollars per acre, as most southern "sage" ground, placed her in poor circumstances. Her surroundings put her in the estimation of her colored neighbors nothing more than "poor white trash." On account of her declining condition, my father, who was extremely liberal, sent me to the Widow Covington

to assist her in gardening. It was a source of happiness to be away from home, and more especially to visit a white person's house for the first time. Just as I left my father's arms with a kiss and "good bye," he exclaimed, "Be a good boy!" As I walked along the rocky pathway, ascending and descending the lofty hills, a constant voice, so tender and penetrating, seemed to re-echo the words of my beloved father, "Be a good boy." Appearing at the widow's gate, the customary salutation, "Hello," was yelled out. Being told to come in, I briskly attempted to step in at the front door, when I was abruptly told, "Go around the back way." This I readily did, thinking that preparations were being made to entertain the guest in the front room. I was given a seat in the kitchen, which was both kitchen and dining room, being tosted over toward the north, leaving several spaces large enough for the cook to have chicken visitors during meal hours. When dinner was prepared, the little colored guest was left to partake of the fragments on a separate table. This action being so inhuman, I asked the widow why did she not ask me to the front room, and before going to dinner send me to the toilet room, and let all sit at one table, as there was so much vacancy at her table. The widow displayed no small degree of madness in her response. "I want you to know that you are a nigger, and you must stay in a nigger's place."

It is to be seen from this that a black man is thought to be inferior to a white man, and should for

this reason be treated as such. The widow's conception of a "nigger's place" is a mouthpiece for the entire South. You might ask, Why is it that Mr. A. is on board of train No. 3, en route for New Orleans, occupying a car with all the modern accommodations; and Mr. B. on the same train, en route for the same place, having paid the same fare, and occupying a car with split bottomed seats? Tobacco juice and smoke have given it a new coat of painting and deathly odor. Mr. A. puts his valise in Mr. B.'s car; smoke, whistle, dance, drink intoxicants, and then return to his pleasant, modernly furnished car. The answer would be, Mr. A. is white and Mr. B. is black, for this reason the employees have assigned Mr. B. to an inferior car, in order that Mr. B. may remain in a "nigger's place."

Thirty-three years have passed since the gloomy clouds of slavery banished, and made way for the negro to see his place—In the school room; in the Legislature, Senate, Congress, Ministers to Republics, Registry of Deeds, Registry of the Treasury, Law, Doctors, Ministers of the Gospel, Bishopric, U. S. Chaplaincy, Editors, Authors, Merchants, and Industry. Now let us see why is it that a dungeon is dug for a "nigger's place." Certainly the negro has harmed no one. Not any more so than the horse stolen from his master. The reason why the white man is at enmity against the black man is, that the white man once owned the black man. Millions of dollars were expended on the purchase of slaves when the war of 1860-'65 began. The purchasers,

it is claimed, had not then received one-half expended on slavery. For this very cause the negro is regarded as worthless property. The white boy has the example of thievishness and slothfulness established by his parents. He is taught that swindling his colored brother is the way his parents came in possession of their wealth, and to work is taking the "nigger's place."

CHAPTER II.

DISCRIMINATION.

The Jim Crow Car, as the negro's first grievance relative to the Southern railroad system, is obviously seen in the foregoing observation. There we see that the matter of being separated from the white passenger "cuts no figure," but the very fact that colored passenger is robbed out of the worth of his well earned money, is the direct reason why the victimized colored passenger appeals to the conscience of those who have power and influence to abolish his present outraged condition.

To get the proper understanding of the cause of discrimination on Southern railroad cars, let us read the following clippings from that great Southern hero, statesman, and renowned Bishop H. M. Turner, D.D., LL.D., D.C.L. From this, we hope to reach a definite conclusion as to whether the fundamental course of discrimination can be suppressed by the enactment of "law." First of all the Civil Rights Bill is before us for consideration. It has blinded the most studious and philanthropic men and women within the British Empire, and the civilized world. Those who meditate on the negro's condition, and sympathize with his environment, and who would attempt to assist him, are led to doubt some of the

current reports against the race, believing that the Civil Rights Bill has imparted privileges to all men alike, and therefore the black man has a right to make use of equal enjoyment of citizenship.

THE CIVIL RIGHTS BILL, WHICH WAS DESTROYED BY THE UNITED STATES SUPREME COURT.

AN ACT to protect all citizens in their civil and legal rights.

Whereas, It is essential to just government, we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law; therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theatres, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offence, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offence, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year; *provided*, that all persons may elect to sue for the penalty aforesaid or to proceed under their rights at common law and by State statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this proviso shall not apply to criminal proceedings, either under this act or the criminal law of any State; *and provided further*, that a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively.

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several States, cognizance of all crimes and offences against, and violations of, the provisions of this act; and actions for the penalty given by the

preceding section may be prosecuted in the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party; and the district attorneys, marshals, and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against laws of the United States, are hereby specially authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offence except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases; *provided*, that nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person, whether by reason of this act or otherwise; and any district attorney who shall wilfully fail to institute and prosecute the proceedings herein required, shall, for every such offence, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars; *and provided further*, that a judgment for the penalty in favor of the party aggrieved against any such district attorney, or a

judgment upon an indictment against any such district attorney, shall be a bar to either prosecution respectively.

SEC. 4. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person, charged with any duty in the selection or summoning of jurors, who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

SEC. 5. That all cases arising under the provisions of this act in the courts of the United States shall be reviewable by the Supreme Court of the United States, without regard to the sum in controversy, under the same provisions and regulations as are now provided by law for the review of other causes in said court.

Approved March 1, 1875.

The "Civil Rights Bill" comes secondary to the emancipation. The bands of an unappalled monster, and disgrace upon a civilized nation, gave way for a better hope for the colored race in 1865. The life and conduct of the once bonded slave proved

within a few years to be equal with his white brethren, and far better than some of his worst oppressors. The general characteristics of the negro, his rapid progress, devotion to his Church, and loyalty to the United States Government, and able achievements in war, demanded a Civil Rights Bill. When slavery, which was death to the colored race, was abolished, the Civil Rights Bill gave them a remedy to LIVE. The following will prove conclusively that the present state of discrimination has not only hereditary origin, but also sanctioned by the Supreme Court :—

UNITED STATES SUPREME COURT REPORTS.

VOL. 109.

J. C. BANCROFT DAVIS, REPORTER.

CIVIL RIGHTS CASES.

Syllabus. Civil Rights Cases.—UNITED STATES *v.* STANLEY (on Certificate of Division from the Circuit Court of the United States for the District of Kansas)—UNITED STATES *v.* RYAN (in Error to the Circuit Court of the United States for the District of California)—UNITED STATES *v.* NICHOLS (on Certificate of Division from the Circuit Court of the United States for the

Western District of Missouri)—UNITED STATES *v.* SINGLETON (on Certificate of Division from the Circuit Court of the United States for the Southern District of New York)—ROBINSON AND WIFE *v.* MEMPHIS AND CHARLESTON RAILROAD COMPANY (in Error to the Circuit Court of the United States for the Western District of Tennessee).

Submitted October Term, 1882.—Decided October 15, 1883.

Civil Rights—Constitution—District of Columbia—Inns—Places of Amusement—Public Conveyances Slavery—Territories.

1. The 1st and 2nd sections of the Civil Rights Act passed March 1st, 1875, are unconstitutional enactments as applied to the several States, not being authorized either by the XIIIth or XIVth Amendments of the Constitution.

2. The XIVth Amendment is prohibitory upon the States only, and the legislation authorized to be adopted by Congress for enforcing it is not *direct* legislation on the matters respecting which the States are prohibited from making or enforcing certain laws, or doing certain acts, but it is *corrective* legislation, such as may be necessary or proper for counteracting and redressing the effects of such laws or acts.

3. The XIIIth Amendment relates to slavery and involuntary servitude (which it abolishes); and although, by its reflex action, it establishes universal freedom in the United States, and Congress may probably pass laws directly enforcing its provisions; yet such legislative power extends only to the subject of slavery and its incidents; and the denial of equal accommodations in inns, public conveyances and places of public amusement (which is forbidden by the sections in question), imposes no badge of slavery or involuntary servitude upon the party, but at most, infringes rights which are protected from State aggression by the XIVth Amendment.

4. Whether the accommodations and privileges sought to be protected by the 1st and 2nd sections of the Civil Rights Act are, or are not rights constitutionally demandable; and if they are, in what form they are to be protected is not now decided.

5. Nor is it decided whether the law as it stands is operative in the Territories and District of Columbia: the decision only relating to its validity as applied to States.

6. Nor is it decided whether Congress, under the commercial power, may or may not pass a law securing to all persons equal accommodations on lines of public conveyance between two or more States.

These cases were all founded on the first and second sections of the Act of Congress, known as the Civil Rights Act, passed March 1st, 1875, entitled, "An Act to protect all citizens in their civil and legal rights." 18 Stat. 335. Two of the cases, those against Stanley and Nichols, were indictments for denying to persons of color the accommodations and privileges of an inn or hotel; two of them, those against Ryan and Singleton, were, one on information, the other an indictment, for denying to individuals the privileges and accommodations of a theatre, the information against Ryan being for refusing a colored person a seat in the dress circle of Maguire's theatre in San Francisco; and the indictment against Singleton was for denying to another person, whose color was not stated, the full enjoyment of the accommodations of the theatre known as the Grand Opera House in New York, "said denial not being made for any reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude." The case of Robinson and wife against the Memphis and Charleston R. R. Company, was an action brought in the Circuit Court of the United States for the Western District of Tennessee, to recover the penalty of five hundred dollars given by the second section of the act; and the gravamen was the refusal by the conductor of the railroad company to allow the wife to ride in the ladies' car, for the reason, as stated in one of the counts, that she was a person of African descent. The jury rendered a verdict for the defendants in this case upon the merits, under a charge of

the court, to which a bill of exceptions was taken by the plaintiffs. The case was tried on the assumption by both parties of the validity of the act of Congress; and the principal point made by the exceptions was, that the judge allowed evidence to go to the jury tending to show that the conductor had reason to suspect that the plaintiff, the wife, was an improper person, because she was in company with a young man whom he supposed to be a white man, and on that account inferred that there was some improper connection between them; and the judge charged the jury, in substance, that if this was the conductor's *bona fide* reason for excluding the woman from the car, they might take it into consideration on the question of the liability of the company. The case was brought here by writ of error at the suit of the plaintiffs. The cases of Stanley, Nichols, and Singleton came up on certificates of division of opinion between the judges below as to the constitutionality of the first and second sections of the act referred to; and the case of Ryan, on a writ of error to the judgment of the Circuit Court for the District of California sustaining a demurrer to the information.

The Stanley, Ryan, Nichols, and Singleton cases were submitted together by the solicitor general at the last term of court, on the 7th day of November, 1882. There were no appearances and no briefs filed for the defendants.

The Robinson case was submitted on the briefs at the last term, on the 29th day of March, 1883.

Mr. Solicitor General Phillips for the United States.

After considering some objections in the forms of proceedings in the different cases, the counsel reviewed the following decisions of the court upon the Thirteenth and Fourteenth Amendments to the Constitution and on points cognate thereto, viz.: *The Slaughter-House Cases*, 16 Wall. 36; *Bradwell* v. *The State*, 16 Wall. 130; *Bartmeyer* v. *Iowa*, 18 Wall. 129; *Minor* v. *Happersett*, 21 Wall. 162; *Walker* v. *Sauvinet*, 92 U. S. 90; *United States* v. *Reese*, 92 U. S. 214; *Kennard* v. *Louisiana*, 92 U. S. 480; *United States* v. *Cruikshank*, 92 U. S. 542; *Munn* v. *Illinois*, 94 U. S. 113; *Chicago B. & C. R. R. Co.* v. *Iowa*, 94 U. S. 155; *Blyew* v. *United States*, 13 Wall. 581; *Railroad Co.* v. *Brown*, 17 Wall. 445; *Hall* v. *DeCuir*, 95 U. S 485; *Strauder* v. *West Virginia*, 100 U. S. 303; *Ex parte Virginia*, 100 U. S. 339; *Missouri* v. *Lewis*, 101 U. S. 22; *Neal* v. *Delaware*, 103 U. S. 370.

Upon the whole, these cases decide that,

1. The Thirteenth Amendment forbids all sorts of involuntary personal servitude except penal, as to all sorts of men, the word servitude taking some color from the historical fact that the United States were then engaged in dealing with African slavery, as well as from the signification of the Fourteenth and Fifteenth Amendments, which must be construed as *advancing* constitutional rights previously existing.

2. The Fourteenth Amendment expresses prohibitions (and consequently implies corresponding positive immunities), *limiting State action only*, including in such action, however, action by all State agencies executive, legislative and judicial, of whatever degree.

3. The Fourteenth Amendment warrants legislation by Congress punishing violations of the immunities thereby secured when committed by agents of States in discharge of ministerial functions.

The right violated by Nichols, which is of the same class as that violated by Stanley and by Hamilton, is the right of locomotion, which Blackstone makes an element of personal liberty. Blackstone's Commentaries, Book I, ch. 1.

In violation of this right, Nichols did not act in an exclusively private capacity, but in one devoted to public use, and so affected with a public, *i. e.*, a State interest. This phrase will be recognized as taken from the *Elevator Cases* in 94 U. S., already cited.

Restraint upon the right of locomotion was a well-known feature of the slavery abolished by the Thirteenth Amendment. A first requisite of the right to appropriate the use of another man was to become the master of his natural power of motion, and by a mayhem therein of the common law to require the whole community to be on the alert to

restrain that power. That this is not exaggeration is shown by the language of the court in *Eaton* v. *Vaughan*, 9 Missouri, 734.

Granting that by *involuntary servitude*, as prohibited in the Thirteenth Amendment, is intended some *institution*, viz., custom, etc., of that sort, and not primarily mere scattered trespasses against liberty committed by private persons, yet, considering what must be the social tendency in at least large parts of the country, it is "appropriate legislation" against such an institution to forbid any action by private persons which in the light of our history may reasonably be apprehended to tend, on account of its being incidental to quasi public occupations, to create an *institution.*

Therefore the above act of 1875, in prohibiting persons from violating the rights of other persons to the full and equal enjoyment of the accommodations of inns and public conveyances, for any reason turning merely upon the race or color of the latter, partakers of the specific character of certain contemporaneous solemn and effective action by the United States to which it was a sequel—and is constitutional.

Mr. William M. Randolph for Robinson and wife, plaintiffs in error.

Where the constitution guarantees a right, Congress is empowered to pass the legislation appropriate to give effect to that right. *Prigg* v. *Pennsylvania*,

16 Peters, 539; *Ableman* v. *Booth*, 21 How. 506; *United States* v. *Reese*, 92 U. S. 214.

Whether Mr. Robinson's rights were created by the Constitution, or only guaranteed by it, in either event the act of Congress, so far as it protects them is within the Constitution. *Pensacola Telegraph Co.* v. *Western Union Tel. Co.*, 96 U. S. 1; *The Passenger Cases*, 7 Howard, 283; *Crandall* v. *Nevada*, 6 Wall. 35

In *Munn* v. *Illinois*, 94 U. S. 113 the following propositions were affirmed:

"Under the powers inherent in every sovereignty, a government may regulate the conduct of its citizens toward each other, and, when necessary for the public good, the manner in which each shall use his own property."

"It has, in the exercise of these powers, been customary in England, from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, etc."

"When the owner of a property devotes it to a use in which the public has an interest, he in effect grants to the public an interest in such use, and must, to the extent of that interest, submit to be controlled by the public, for the common good, as long as he maintains the use."

Undoubtedly, if Congress could legislate on the subject at all, its legislation, by the act of 1st March, 1875, was within the principles thus announced.

The penalty denounced by the statute is incurred by denying to any citizen "the full enjoyment of any of the accommodations, advantages, facilities or privileges" enumerated in the first section, and it is wholly immaterial whether the citizen whose rights are denied him belongs to one race or class or another, or is of one complexion or another. And again, the penalty follows every denial of the full enjoyment of any of the accommodations, advantages, facilities, or privileges, except and unless the denial was "*for reasons by law* applicable to citizens of every race and color, and regardless of any previous condition of servitude."

Mr. William Y. C. Humes and *Mr. David Posten* for the Memphis and Charleston Railroad Co., defendants in error.

THE DECISION OF THE COURT.

MR. JUSTICE BRADLEY delivered the opinion of the court. After stating the facts in the above language, he continued :

It is obvious that the primary and important question in all the cases is the constitutionality of the law ; for if the law is unconstitutional, none of the prosecutions can stand.

The sections of the law referred to provide as follows:

"SEC. 1. That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances on land or water, theatres and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

"SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offence forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offence, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year: *Provided*, That all persons may elect to sue for the penalty aforesaid, or to proceed under their rights at common law and by State statutes; and having so elected to proceed in the one

mode or the other, their right to proceed in the other jurisdiction shall be barred. But this provision shall not apply to criminal proceedings, either under this act or the criminal law of any State; *And provided further*, That a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively."

Are these sections constitutional? The first section, which is the principal one, cannot be fairly understood without attending to the last clause, which qualifies the preceding part.

The essence of the law is, not to declare broadly that all persons shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances and theatres; but that such enjoyment shall not be subject to any conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. In other words, it is the purpose of the law to declare that, in the enjoyment of the accommodations and privileges of inns, public conveyances, theatres and other places of public amusement, no distinction shall be made between citizens of different race or color, or between those who have, and those who have not, been slaves. Its effect is to declare, that in all inns, public conveyances and places of amusement, colored citizens, whether formerly slaves or not, and citizens of other races, shall have the same accommodations and privileges in all inns, public conveyances and places of amuse-

ment as are enjoyed by white citizens ; and *vice versa.* The second section makes it a penal offence in any person to deny to any citizen of any race or color, regardless of previous servitude, any of the accommodations or privileges mentioned in the first section.

Has Congress constitutional power to make such a law? Of course, no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments. The power is sought, first, in the Fourteenth Amendment, and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power. We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt, in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass. But the responsibility of an independent judgment is now thrown upon this court; and we are bound to exercise it according to the best lights we have.

The first section of the Fourteenth Amendment (which is the one relied on), after declaring who shall be citizens of the United States, and of the several States, is prohibitory in its character, and prohibitory upon the States. It declares that:

"No State shall make or enforce any law which

shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject-matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation and State action of every kind which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. It not only does this, but in order that the national will thus declared may not be a mere *brutum fulmen*, the last section of the amendment invests Congress with power to enforce it by appropriate legislation. To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation; but to provide modes of relief against State legislation or State action of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress

against the operation of State laws, and the action of State officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the Fourteenth Amendment; but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect; and such legislation must necessarily be predicated upon such supposed State laws or State proceedings, and be directed to the correction of their operation and effect. A quite full discussion of this aspect of the amendment may be found in *United States* v. *Cruikshank*, 92 U. S. 542; *Virginia* v. *Rives*, 100 U. S. 313; and *Ex parte Virginia*, 100 U. S. 339

An apt illustration of this distinction may be found in some of the provisions of the original Constitution. Take the subject of contracts, for example. The Constitution prohibited the States from passing any law impairing any obligation of contracts. This did not give to Congress power to provide laws for the general enforcement of contracts, nor power to invest the courts of the United States with jurisdiction over contracts so as to enable parties to sue upon them in those courts. It did, however, give the power to provide remedies by which the impairment of contracts by State legislation might be counteracted and corrected; and this power was exercised. The remedy which Congress actually provided was that contained in the 25th section of the Judiciary Act of

1789, 1 Stat. 85, giving to the Supreme Court of the United States jurisdiction by writ of error to review the final decisions of State courts whenever they should sustain the validity of a State statute or authority alleged to be repugnant to the Constitution or laws of the United States. By this means, if a State law was passed impairing the obligation of a contract, and the State tribunals sustained the validity of the law, the mischief could be corrected in this court. The legislation of Congress, and the proceedings provided under it, were corrective in their character. No attempt was made to draw into the United States courts the litigation of contracts generally, and no such attempt would have been sustained. We do not say that the remedy provided was the only one that might have been provided in that case. Probably Congress had power to pass a law giving to the courts of the United States direct jurisdiction over contracts alleged to be impaired by a State law; and under the broad provisions of the act of March 3rd, 1875, ch. 237, 18 Stat. 470, giving to the circuit courts jurisdiction of all cases arising under the Constitution and laws of the United States, it is possible that such jurisdiction now exists. But under that, or any other law, it must appear as well by allegation, as proof at the trial, that the Constitution had been violated by the action of the State legislature. Some obnoxious State law passed, or that might be passed, is necessary to be assumed in order to lay the foundation of any federal remedy in the case, and for the very sufficient reason, that the constitutional provision is against *State laws* impairing the obligation of contracts.

And so in the present case, until some State law has been passed, or some State action through its officers or agents has been taken adverse to the rights of citizens sought to be protected by the Fourteenth Amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity, for the prohibitions of the amendment are against State laws and acts done under State authority. Of course, legislation may, and should be, provided in advance to meet the exigency when it arises; but it should be adapted to the mischief and wrong which the amendment was intended to provide against, and that is State laws or State action of some kind adverse to the rights of the citizen secured by the amendment. Such legislation cannot properly cover the whole domain of rights appertaining to life, liberty and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them. It is absurd to affirm that, because the rights of life, liberty and property (which include all civil rights that men have) are by the amendment sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case, and that, because the denial by a State to any person of the equal protection of the laws is prohibited by the amendment, therefore Congress may establish laws for their equal protec-

tion. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking. It is not necessary for us to state, if we could, what legislation would be proper for Congress to adopt. It is sufficient for us to examine whether the law in question is of that character.

An inspection of the law shows that it makes no reference whatever to any supposed or apprehended violation of the Fourteenth Amendment on the part of the States. It is not predicated on an such view. It proceeds *ex directo* to declare that certain acts committed by individuals shall be deemed offences, and shall be prosecuted and punished by proceedings in the courts of the United States. It does not profess to be corrective of any constitutional wrong committed by the States ; it does not make its operation to depend upon any such wrong committed. It applies equally to cases arising in States which have the justest laws respecting the personal rights of citizens, and whose authorities are ever ready to enforce such laws, as to those which arise in States that may have violated the prohibition of the amendment. In other words, it steps into the domain of

local jurisprudence, and lays down rules for the conduct of individuals in society towards each other, and imposes sanctions for the enforcement of those rules without referring in any manner to any supposed action of the State or its authorities.

If this legislation is appropriate for enforcing the prohibitions of the amendment, it is difficult to see where it is to stop. Why may not Congress with equal show of authority enact a code of laws for the enforcement and vindication of all rights of life, liberty and property? If it is supposable that the States may deprive persons of life, liberty and property without due process of law (and the amendment itself does suppose this), why should not Congress proceed at once to prescribe due process of law for the protection of every one of these fundamental rights in every possible case, as well as to prescribe equal privileges in inns, public conveyances and theatres? The truth is, that the implication of a power to legislate in this manner is based upon the assumption that if the States are forbidden to legislate or act in a particular way on a particular subject, and power is conferred upon Congress to enforce the prohibition, this gives Congress power to legislate generally upon that subject, and not merely power to provide modes of redress against such State legislation or action. The assumption is certainly unsound. It is repugnant to the Tenth Amendment of the Constitution, which declares that powers not delegated to the United States by the Constitution, nor prohibited

by it to the States, are reserved to the States respectively or to the people.

We have not overlooked the fact that the fourth section of the act now under consideration has been held by this court to be constitutional. That section declares "that no citizen, possessing all other qualifications which are or may be prescribed by law, shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors, who shall exclude or fail to summon any citizen for the cause aforesaid, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars." In *Ex parte Virginia*, 100 U. S. 339, it was held that an indictment against a State officer under this section for excluding persons of color from the jury list is sustainable. But a moment's attention to its terms will show that the section is entirely corrective in its character. Disqualifications for service on juries are only created by the law, and the first part of the section is aimed at certain disqualifying laws, namely, those which make mere race or color a disqualification, and the second clause is directed against those who, assuming to use the authority of the State government, carry into effect such a rule of disqualification. In the Virginia case, the State through its officer enforced a rule of disqualification which the law was intended to abrogate and counteract. Whether the statute book

of the State actually laid down any such rule of disqualification or not, the State through its officer enforced such a rule ; and it is against such State action through its officers and agents that the last clause of the section is directed. This aspect of the law was deemed sufficient to divest it of any unconstitutional character, and makes it differ widely from the first and second sections of the same act which we are now considering

These sections, in the objectionable features before referred to, are different also from the law ordinarily called the "Civil Rights Bill," originally passed April 9, 1866, 14 Stat. 27, ch. 31, and re-enacted with some modifications in sections 16, 17, 18, of the Enforcement Act passed May 31st, 1870, 16 Stat. 140, ch. 114. That law, as re-enacted, after declaring that all persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and none other, any law, statute, ordinance, regulation or custom to the contrary notwithstanding, proceeds to enact that any person who, under color of any law, statute, ordinance, regulation or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any rights secured or protected by the preceding section above quoted,

or to different punishment, pains or penalties on account of such person being an alien, or by reason of his color or race, than is prescribed for the punishment of citizens, shall be deemed guilty of a misdemeanor, and subject to fine and imprisonment as specified in the act. This law is clearly corrective in its character, intended to counteract and furnish redress against State laws and proceedings and customs having the force of law which sanction the wrongful acts specified. In the Revised Statutes, it is true, a very important clause, to wit, the words "any law, statute, ordinance, regulation or custom to the contrary notwithstanding," which gave the declaratory section its point and effect, are omitted; but the penal part, by which the declaration is enforced, and which is really the effective part of the law, retains the reference to state laws by making the penalty apply only to those who should subject parties to a deprivation of their rights under color of any statute, ordinance, custom, etc., of any State or Territory, thus preserving the corrective character of the legislation. Rev. St., §§ 1977, 1978, 1979, 5510. The Civil Rights Bill here referred to is analogous in its character to what a law would have been under the original Constitution, declaring that the validity of contracts should not be impaired, and that if any person bound by a contract should refuse to comply with it under color or pretence that it had been rendered void or invalid by a State law, he should be liable to an action upon it in the courts of the United States, with the addition of a penalty for setting up such an unjust and unconstitutional defence.

In this connection it is proper to state that civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual—an invasion of the rights of the injured party, it is true, whether they affect his person, his property or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. An individual cannot deprive a man of his right to vote, to hold property, to buy and sell, to sue in the courts, or to be a witness or juror; he may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault against the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a fellow-citizen; but unless protected in these wrongful acts by some shield of State law or State authority, he cannot destroy or injure the right; he will only render himself amenable to satisfaction or punishment, and amenable therefor to the laws of the State where the wrongful acts are committed. Hence in all of those cases where the Constitution seeks to protect the rights of the citizen against discriminative and unjust laws of the State by prohibiting such laws, it is not individual offences, but abrogation and denial of rights which it denounces, and for which it

clothes the Congress with power to provide a remedy. This abrogation and denial of rights, for which the States alone were or could be responsible, was the great seminal and fundamental wrong which was intended to be remedied. And the remedy to be provided must necessarily be predicated upon that wrong. It must assume that in the cases provided for the evil or wrong actually committed rests upon some State law or State authority for its excuse and perpetration.

Of course these remarks do not apply to those cases in which Congress is clothed with direct and plenary powers of legislation over the whole subject, accompanied with an express or implied denial of such power to the States, as in the regulation of commerce with foreign nations, among the several States, and with the Indian tribes, the coining of money, the establishment of post offices and post roads, the declaring of war, etc. In these cases Congress has power to pass laws for regulating the subjects specified in every detail, and the conduct and transactions of individuals in respect thereof. But where a subject is not submitted to the general legislative power of Congress, but is only submitted thereto for the purpose of rendering effective some prohibition against particular State legislation or State action in reference to that subject, the power given is limited by its object, and any legislation by Congress in the matter must necessarily be corrective in its character, adapted to counteract and redress the operation of such prohibited State laws or proceedings of State officers.

If the principles of interpretation which we have laid down are correct, as we deem them to be (and they are in accord with the principles laid down in the cases before referred to, as well as in the recent case of *United States* v. *Harris*, 106 U. S. 629), it is clear that the law in question cannot be sustained by any grant of legislative power made to Congress by the Fourteenth Amendment. That amendment prohibits the States from denying to any person the equal protection of the laws, and declares that Congress shall have power to enforce, by appropriate legislation, the provisions of the amendment. The law in question, without any reference to adverse State legislation on the subject, declares that all persons shall be entitled to equal accommodations and privileges of inns, public conveyances and places of public amusement, and imposes a penalty upon any individual who shall deny to any citizen such equal accommodations and privileges. This is not corrective legislation; it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances and places of amusement; it supersedes and displaces State legislation on the same subject, or only allows it permissive force; it ignores such legislation, and assumes that the matter is one that belongs to the domain of national regulation. Whether it would not have been a more effective protection of the rights of citizens to have clothed Congress with plenary power over the whole subject is not now the question. What we have to decide is, whether such plenary power has

been conferred upon Congress by the Fourteenth Amendment ; and in our judgment it has not.

We have discussed the question presented by the law on the assumption that a right to enjoy equal accommodations and privileges in all inns, public conveyances and places of public amusements, is one of the essential rights of the citizen which no State can abridge or interfere with. Whether it is such a right or not, is a different question which, in the view we have taken of the validity of the law on the ground already stated, it is not necessary to examine.

We have also discussed the validity of the law in reference to cases arising in the States only ; and not in reference to cases arising in the Territories or the District of Columbia, which are subject to the plenary legislation of Congress in every branch of municipal regulation. Whether the law would be a valid one as applied to the Territories and the District is not a question for consideration in the cases before us ; they all being cases arising within the limits of States. And whether Congress, in the exercise of its power to regulate commerce amongst the several States, might or might not pass a law regulating rights in public conveyances passing from one State to another, is also a question which is not now before us, as the sections in question are not conceived in any such view.

But the power of Congress to adopt direct and primary, as distinguished from corrective legislation,

on the subject in hand, is sought, in the second place, from the Thirteenth Amendment, which abolishes slavery. This amendment declares "that neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction;" and it gives Congress power to enforce the amendment by appropriate legislation.

This amendment, as well as the Fourteenth, is undoubtedly self-executing without any ancillary legislation, so far as its terms are applicable to any existing state of circumstances. By its own unaided force and effect it abolished slavery, and established universal freedom. Still, legislation may be necessary and proper to meet all the various cases and circumstances to be affected by it, and to prescribe proper modes of redress for its violation in letter or spirit. And such legislation may be primary and direct in its character; for the amendment is not a mere prohibition of State laws establishing or upholding slavery, but an absolute declaration that slavery or involuntary servitude shall not exist in any part of the United States.

It is true that slavery cannot exist without law, any more than property in land and goods can exist without law: and, therefore, the Thirteenth Amendment may be regarded as nullifying all State laws which establish or uphold slavery. But it has a reflex character also, establishing and decreeing uni-

versal civil and political freedom throughout the United States; and it is assumed that the power vested in Congress to enforce the article by appropriate legislation, clothes Congress with power to pass all laws necessary and proper for abolishing all badges and inc[illegible]nts of slavery in the United States; and upon this [illegible]mption it is claimed that this is sufficient authority for declaring by law that all persons shall have equal accommodations and privileges in all inns, public conveyances and places of amusement; the argument being that the denial of such equal accommodations and privileges is, in itself, a subjection to a species of servitude within the meaning of the amendment. Conceding the major proposition to be true, that Congress has a right to enact all necessary and proper laws for the obliteration and prevention of slavery with all its badges and incidents, is the minor proposition also true, that the denial to any person of admission to the accommodations and privileges of an inn, a public conveyance or a theatre does subject that person to any form of servitude, or tend to fasten upon him any badge of slavery? If it does not, then power to pass the law is not found in the Thirteenth Amendment.

In a very able and learned presentation of the cognate question, as to the extent of the rights, privileges and immunities of citizens which cannot rightfully be abridged by State laws under the Fourteenth Amendment, made in a former case, a long list of burdens and disabilities of a servile character incident to feudal vassalage in France, and which were abol-

ished by the decrees of the National Assembly, was presented for the purpose of showing that all inequalities and observances exacted by one man from another were servitudes, or badges of slavery, which a great nation, in its effort to establish universal liberty, made haste to wipe out and destroy. But these were servitudes imposed by the old law, or by long custom, which had the force of law, and exacted by one man from another without the latter's consent. Should any such servitudes be imposed by a State law, there can be no doubt that the law would be repugnant to the Fourteenth, no less than to the Thirteenth Amendment; nor any greater doubt that Congress has adequate power to forbid any such servitude from being exacted.

But is there any similarity between such servitudes and a denial by the owner of an inn, a public conveyance or a theatre, of its accommodations and privileges to an individual, even though the denial be founded on the race or color of that individual? Where does any slavery or servitude, or badge of either, arise from such an act of denial? Whether it might not be a denial of a right which, if sanctioned by the State law, would be obnoxious to the prohibitions of the Fourteenth Amendment is another question. But what has it to do with the question of slavery?

It may be that by the Black Code (as it was called), in the times when slavery prevailed, the pro-

prietors of inns and public conveyances were forbidden to receive persons of the African race, because it might assist slaves to escape from the control of their masters. This was merely a means of preventing such escapes, and was no part of the servitude itself. A law of that kind could not have any such object now, however justly it might be deemed an invasion of the party's legal right as a citizen and amenable to the prohibitions of the Fourteenth Amendment.

The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. Compulsory service of the slave for the benefit of the master, restraint of his movements except by his master's will, disability to hold property, to make contracts, to have a standing in court, to be a witness against a white person, and such like burdens and incapacities were the inseparable incidents of the institution. Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences Congress, as we have seen, by the Civil Rights Bill of 1866, passed in view of the Thirteenth Amendment, before the Fourteenth was adopted, undertook to wipe out these burdens and disabilities, the necessary incidents of slavery, constituting its substance and visible form; and to secure to all citizens of every race and color, without regard to previous servitude, those fundamental rights which are the essence of civil freedom, namely, the same right to make and enforce contracts, to sue, be parties, give evidence,

and to inherit, purchase, lease, sell and convey property, as is enjoyed by white citizens. Whether this legislation was fully authorized by the Thirteenth Amendment alone without the support which it afterward received from the Fourteenth Amendment, after the adoption of which it was re-enacted with some additions, it is not necessary to enquire. It is referred to for the purpose of showing that at that time (in 1866) Congress did not assume, under the authority given by the Thirteenth Amendment, to adjust what may be called the social rights of men and races in the community, but only to declare and vindicate those fundamental rights which appertain to the essence of citizenship, and the enjoyment or deprivation of which constitutes the essential distinction between freedom and slavery.

We must not forget that the province and scope of the Thirteenth and Fourteenth Amendments are different; the former simply abolished slavery; the latter prohibited the States from abridging the privileges or immunities of citizens of the United States; from depriving them of life, liberty or property without due process of law, and from denying to any the equal protection of the laws. The amendments are different and the powers of Congress under them are different. What Congress has power to do under one, it may not have power to do under the other. Under the Thirteenth Amendment, it has only to do with slavery and its incidents. Under the Fourteenth Amendment, it has power to counteract and render nugatory all State laws and proceedings which have

the effect to abridge any of the privileges or immunities of citizens of the United States, or to deprive them of life, liberty or property without due process of law, or to deny to any of them the equal protection of the laws. Under the Thirteenth Amendment, the legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not; under the Fourteenth, as we have already shown, it must necessarily be, and can only be, corrective in its character, addressed to counteract and afford relief against State regulations or proceedings.

The only question under the present head, therefore, is whether the refusal to any persons of the accommodations of an inn, or a public conveyance, or a place of public amusement, by an individual, and without any sanction or support from the State law regulation, does inflict upon such persons any manner of servitude, or form of slavery, as those terms are understood in this country? Many wrongs may be obnoxious to the prohibitions of the Fourteenth Amendment which are not, in any just sense, incidents or elements of slavery. Such, for example, would be the taking of private property without due process of law; or allowing persons who have committed certain crimes (horse stealing for example) to be seized and hung by the *posse comitatus* without regular trial; or denying to any person, or class of persons, the right to pursue any peaceful avocations

allowed to others. What is called class legislation would belong to this category, and would be obnoxious to the prohibitions of the Fourteenth Amendment, but would not necessarily be so to the Thirteenth, when not involving the idea of any subjection of one man to another. The Thirteenth Amendment has respect not to distinctions of race, or class, or color, but to slavery. The Fourteenth Amendment extends its protection to races and classes, and prohibits any State legislation which has the effect of denying to any race or class, or to any individual, the equal protection of the laws.

Now, conceding, for the sake of the argument, that the admission to an inn, a public conveyance or a place of public amusement, on equal terms with all other citizens, is the right of every man and all classes of men, is it any more than one of those rights which the States by the Fourteenth Amendment are forbidden to deny to any person? And is the Constitution violated until the denial of the right has some State sanction or authority? Can the act of a mere individual, the owner of the inn, the public conveyance or place of amusement, refusing the accommodation, be justly regarded as imposing any badge of slavery or servitude upon the applicant, or only as inflicting an ordinary civil injury, properly, cognizable by the laws of the State, and presumably subject to redress by those laws until the contrary appears?

After giving to these questions all the considera-

tion which their importance demands, we are forced to the conclusion that such an act of refusal has nothing to do with slavery or involuntary servitude, and that if it is violative of any right of the party, his redress is to be sought under the laws of the State; or if those laws are adverse to his rights and do not protect him, his remedy will be found in the corrective legislation which Congress has adopted, or may adopt for counteracting the effect of State laws, or State action prohibited by the Fourteenth Amendment. It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person may see fit to make as to the guests he will entertain, or as to the people he will take into his coach or cab or car, or admit to his concert or theatre, or deal with in other matters of intercourse or business. Innkeepers and public carriers, by the laws of all the States so far as we are aware, are bound, to the extent of their facilities, to furnish proper accommodation to all unobjectionable persons who in good faith apply for them. If the laws themselves make any unjust discrimination, amenable to the prohibitions of the Fourteenth Amendment, Congress has full power to afford a remedy under that amendment and in accordance with it.

When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a

citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty and property the same as white citizens; yet no one, at that time, thought that it was any invasion of his personal status as a freeman because he was not admitted to all the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances and places of amusement. Mere discriminations on account of race or color were not regarded as badges of slavery. If, since that time, the enjoyment of equal rights in all these respects has become established by constitutional enactment, it is not by force of the Thirteenth Amendment (which merely abolishes slavery), but by force of the Thirteenth and Fifteenth Amendments.

On the whole we are of opinion, that no countenance of authority for the passage of the law in question can be found in either the Thirteenth or Fourteenth Amendments of the Constitution; and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several States is concerned.

This conclusion disposes of the cases now under consideration. In the cases of the *United States* v. *Michael Ryan*, and of *Richard A. Robinson and wife*

v. *The Memphis and Charleston Railroad Company*, the judgment must be affirmed. In the other cases, the answer to be given will be that the first and second sections of the act of Congress of March 1st, 1875, entitled "An Act to protect all citizens in their civil and legal rights," are unconstitutional and void, and that judgment should be rendered upon the several indictments in those cases accordingly,

And it is so ordered.

DISSENTING OPINION.

MR. JUSTICE HARLAN dissenting.

The opinion in these cases proceeds, it seems to me, upon grounds entirely too narrow and artificial. I cannot resist the conclusion that the substance and spirit of the recent amendments of the Constitution have been sacrificed by a subtle and ingenius verbal criticism. "It is not the words of the law, but the internal sense of it, that makes the law: the letter of the law is the body; the sense and reason of the law is the soul." Constitutional provisions, adopted in the interest of liberty, and for the purpose of securing, through national legislation, if need be, rights inhering in a state of freedom, and belonging to American citizenship, have been so construed as to defeat the ends the people desired to accomplish, which they attempted to accomplish, and which they supposed they had accomplished by changes in their fundamental law. By this I do not mean that the deter-

mination of these cases should have been materially controlled by considerations of mere expediency or policy. I mean only in this form, to express an earnest conviction that the court has departed from the familiar rule requiring, in the interpretation of constitutional provisions, that full effect be given to the intent with which they were adopted.

The purpose of the first section of the Act of Congress of March 1, 1875, was to prevent *race* discrimination in respect of the accommodations and facilities of inns, public conveyances and places of public amusement. It does not assume to define the general conditions and limitations under which inns, public conveyances and places of public amusement may be conducted, but only declares that such conditions and limitations, whatever they may be, shall not be applied so as to work a discrimination solely because of race, color or previous condition of servitude. The second section provides a penalty against any one denying, or aiding or inciting the denial, to any citizen, of that equality of right given by the first section, except for reasons by law applicable to citizens of every race or color and regardless of any previous condition of servitude.

There seems to be no substantial difference between my brethren and myself as to the purpose of Congress; for, they say that the essence of the law is, not to declare broadly that all persons shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns,

public conveyances and theatres; but that such enjoyment shall not be subject to conditions applicable only to citizens of a particular race or color, or who had been in a previous condition of servitude. The effect of the statute, the court says, is, that colored citizens, whether formerly slaves or not, and citizens of other races, shall have the same accommodations and privileges in all inns, public conveyances and places of amusement as are enjoyed by white persons; and *vice versa*.

The court adjudges, I think erroneously, that Congress is without power, under either the Thirteenth or Fourteenth Amendments, to establish such regulations, and that the first and second sections of the statute are, in all their parts, unconstitutional and void.

Whether the legislative department of the government has transcended the limits of its constitutional powers, "is at all times," said the court in *Fletcher* v. *Peck*, 6 Cr. 128, "a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative, in a doubtful case.....The opposition between the Constitution and the law should be such that the judge feels a clear and strong conviction of their incompatibility with each other." More recently in *Sinking Fund Cases*, 99 U. S., 718, we said: "It is our duty when required in the regular course of judicial proceedings, to declare an Act of Congress void if not within the legislative power of the United States; but this declaration should never be made

except in a clear case. Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the government cannot encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule."

Before considering the language and scope of these amendments, it will be proper to recall the relations subsisting, prior to their adoption, between the national government and the institution of slavery, as indicated by the provisions of the Constitution, the legislation of Congress, and the decisions of this court. In this mode we may obtain keys with which to open the mind of the people, and discover the thought intended to be expressed.

In section 2 of article IV. of the Constitution it was provided that "no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." Under authority of this clause Congress passed the Fugitive Slave Law of 1793, establishing a mode for the recovery of fugitive slaves, and prescribing a penalty against any person who should knowingly and willingly obstruct or hinder the master, his agent, or attorney, in seizing, and recovering the fugitive, or who should rescue the fugitive from him, or who

should harbor or conceal the slave after notice that he was a fugitive.

In *Prigg* v. *Commonwealth of Pennsylvania*, 16 Pet. 539, this court had occasion to define the powers and duties of Congress in reference to fugitives from labor. Speaking by MR. JUSTICE STORY, it laid down these propositions :

That a clause of the Constitution conferring a right should not be so construed as to make it shadowy, or unsubstantial, or leave the citizen without a remedial power adequate for its protection, when another construction equally accordant with the words and the sense in which they were used, would enforce and protect the right granted :

That Congress is not restricted to legislation for the execution of its expressly granted powers ; but for the protection of rights guaranteed by the Constitution, may employ such means, not prohibited, as are necessary and proper, or such as are appropriate, to attain the ends proposed :

That the Constitution recognized the master's right of property in his fugitive slave, and, as incidental thereto, the right of seizing and recovering him, regardless of any State law, or regulation, or local custom whatsoever ; and,

That the right of the master to have his slave, thus escaping, delivered up on claim, being guaran-

teed by the Constitution, the fair implication was that the national government was clothed with appropriate authority and functions te enforce it.

The court said: "The fundamental principle, applicable to all cases of this sort, would seem to be that when the end is required the means are given, and when the duty is enjoined the ability to perform it is contemplated to exist on the part of the functionary to whom it is entrusted." Again: "It would be a strange anomaly and forced construction to suppose that the national government meant to rely for the due fulfillment of its own proper duties, and the rights which it intended to secure, upon state legislation, and not upon that of the Union. *A fortiori*, it would be more objectionable to suppose that a power which was to be the same throughout the Union, should be confided to State sovereignty which could not rightfully act beyond its own territorial limits."

The act of 1793 was, upon these grounds, adjudged to be a constitutional exercise of the powers of Congress.

It is to be observed from the report of Prigg's case that Pennsylvania, by her attorney-general, pressed the argument that the obligation to surrender fugitive slaves was on the States and for the States, subject to the restriction that they should not pass laws or establish regulations liberating such fugitives; that the Constitution did not take from the States the right to determine the status of all persons within

their respective jurisdictions ; that it was for the State in which the alleged fugitive was found to determine, through her courts or in such modes as she prescribed, whether the person arrested was, in fact, a freeman or a fugitive slave ; that the sole power of the general government in the premises was, by judicial instrumentality, to restrain and correct, not to forbid and prevent in the absence of hostile State action ; and that for the general government to assume primary authority to legislate on the subject of fugitive slaves, to the exclusion of the States, would be a dangerous encroachment on State sovereignty. But to such suggestions this court turned a deaf ear, and adjudged that primary legislation by Congress to enforce the master's right was authorized by the Constitution.

We next come to the Fugitive Slave Act of 1850, the constitutionality of which rested, as did that of 1793, solely upon the implied power of Congress to enforce the master's rights. The provisions of that act were far in advance of previous legislation. They placed at the disposal of the master seeking to recover his fugitive slave, substantially the whole power of the nation. It invested commissioners, appointed under the act, with power to summon the *posse comitatus* for the enforcement of its provisions, and commanded all good citizens to assist in its prompt and efficient execution whenever their services were required as part of the *posse comitatus.* Without going into the details of that act, it is sufficient to say that Congress omitted from it nothing which the utmost ingenuity could suggest as essential to the

successful enforcement of the master's claim to recover his fugitive slave. And this court, in *Ableman* v. *Booth*, 21 How. 506, adjudged it to be "in all of its provisions fully authorized by the Constitution of the United States."

The only other case, prior to the adoption of the recent amendments, to which reference will be made, is that of *Dred Scott* v. *Sanford*, 19 How, 399. That case was instituted in a circuit court of the United States by Dred Scott, claiming to be a citizen of Missouri, the defendant being a citizen of another State. Its object was to assert the title of himself and family to freedom. The defendant pleaded in abatement that Scott—being of African descent, whose ancestors, of pure African blood, were brought into this country and sold as slaves—was not a *citizen*. The only matter in issue, said the court, was whether the descendants of slaves thus imported and sold, when they should be emancipated, or who were born of parents who had become free before their birth, are citizens of a State in the sense in which the word "citizen" is used in the Constitution of the United States.

In determining that question the court instituted an inquiry as to who were citizens of the several States at the adoption of the Constitution, and who, at that time, were recognized as the people whose rights and liberties had been violated by the British Government. The result was a declaration, by this court, speaking by Chief Justice Taney, that the

legislation and histories of the times, and the language used in the Declaration of Independence, showed "that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that instrument;" that "they had for more than a century before been regarded as beings of an inferior race, and altogether unfit to associate with the white race, either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit;" that he was "bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it;" and, that "this opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without for a moment doubting the correctness of this opinion."

The judgment of the court was that the words "people of the United States" and "citizens" meant the same thing, both describing the political body who, according to our republican institutions, form the sovereignty and hold the power and conduct the government through their representatives;" that

"they are what we familiarly call the 'sovereign people,' and 'every citizen is one of this people and a constituent member of this sovereignty;' but, that the class of persons described in the plea in abatement did not compose a portion of this people, were not "included and were not intended to be included under the word 'citizens' in the Constitution;" that, therefore, they could "claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States;" that, "on the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the government might choose to grant them."

Such were the relations which formerly existed between the government, whether national or State, and the descendants, whether free or in bondage, of those of African blood, who had been imported into this country and sold as slaves.

The first section of the Thirteenth Amendment provides that "neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Its second section declares that "Congress shall have power to enforce this article by appro-

priate legislation." This amendment was followed by the Civil Rights Act of April 9, 1866, which, among other things, provided that "all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, and hereby declared to be citizens of the United States." 14 Stat. 27. The power of Congress, in this mode, to elevate the enfranchised race to national citizenship, was maintained by the supporters of the act of 1886 to be as full and complete as its power, by general statute, to make the children, being of full age, of persons naturalized in this country, citizens of the United States without going through the process of naturalization. The act of 1866, in this respect was also likened to that of 1843, in which Congress declared "that the Stockbridge tribe of Indians, and each and every one of them, shall be deemed to be and are hereby declared to be, citizens of the United States to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall in all respects be subject to the laws of the United States." If the act of 1866 was valid in conferring national citizenship upon all embraced by its terms, then the colored race, enfranchised by the Thirteenth Amendment, became citizens of the United States prior to the adoption of the Fourteenth Amendment. But, in the view which I take of the present case, it is not necessary to examine this question.

The terms of the Thirteenth Amendment are absolute and universal. They embrace every race

which then was, or might thereafter be, within the United States. No race, as such, can be excluded from the benefits or rights thereby conferred. Yet, it is historically true that that amendment was suggested by the condition, in this country, of that race which had been declared, by this court, to have had —according to the opinion entertained by the most civilized portion of the white race, at the time of the adoption of the Constitution—"no rights which the white man was bound to respect," none of the privileges or immunities secured by that instrument to citizens of the United States. It had reference, in a peculiar sense, to a people which (although the larger part of them were in slavery) had been invited by an act of Congress to aid in saving from overthrow a government which theretofore, by all of its departments, had treated them as an inferior race, with no legal rights or privileges, except such as the white race might choose to grant them.

These are the circumstances under which the Thirteenth Amendment was proposed for adoption. They are now recalled only that we may better understand what was in the minds of the people when that amendment was considered, and what were the mischiefs to be remedied and the grievances to be redressed by its adoption.

We have seen that the power of Congress, by legislation, to enforce the master's right to have his slave delivered up on claim was *implied* from the recognition of that right in the national Constitution.

But the power conferred by the Thirteenth Amendment does not rest upon implication or inference. Those who framed it were ignorant of the discussion, covering many years of our country's history, as to the constitutional power of Congress to enact the Fugitive Slave Laws of 1793 and 1850. When, therefore, it was determined, by a change in the fundamental law, to uproot the institution of slavery wherever it existed in the land, and to establish universal freedom, there was a fixed purpose to place the authority of Congress in the premises beyond the possibility of a doubt. Therefore, *ex industria*, power to enforce the Thirteenth Amendment, by appropriate legislation, was expressly granted. Legislation for that purpose, my brethren concede, may be direct and primary. But to what specific ends may it be directed? This court has uniformly held that the national government has the power, whether expressly given or not, to secure and protect rights conferred or granted by the Constitution. *United Ssates* v. *Reese*, 92 U. S. 214; *Strauder* v. *West Virginia*, 100 U. S. 303. That doctrine ought not now to be abandoned when the inquiry is not as to an implied power to protect the master's rights, but what may Congress, under powers expressly granted, do for the protection of freedom and the rights necessarily inhering in a state of freedom.

The Thirteenth Amendment, it is conceded, did something more than to prohibit slavery as an *institution*, resting upon distinction of race, and upheld by positive law. My brethren admit that it estab-

lished and decreed universal *civil freedom* throughout the United States. But did the freedom thus established involve nothing more than exemption from actual slavery? Was nothing more intended than to forbid one man from owning another as property? Was it the purpose of the nation simply to destroy the institution, and then remit the race, theretofore held in bondage, to the several States for such protection, in their civil rights, necessarily growing out of freedom, as those states in their discretion, might choose to provide? Were the States against whose protest the institution was destroyed, to be left free, as far as national interference was concerned, to make or allow discriminations against that race, as such, in the enjoyment of those fundamental rights which by universal concession, inhere in a state of freedom? Had the Thirteenth Amendment stopped with the sweeping declaration, in its first section, against the existence of slavery and involuntary servitude, except for crime, Congress would have had the power, by implication, according to the doctrine of *Prigg* v. *Commonwealth of Pennsylvania*, repeated in *Strauder* v. *West Virginia*, to protect the freedom established, and consequently, to secure the enjoyment of such civil rights as were fundamental in freedom. That it can exert its authority to that extent is made clear, and was intended to be made clear, by the express grant of power contained in the second section of the Amendment.

That there are burdens and disabilities which constitute badges of slavery and servitude, and that

the power to enforce by appropriate legislation the Thirteenth Amendment may be exerted by legislation of a direct and primary character, for the eradication, not simply of the institution, but of its badges and incidents, are propositions which ought to be deemed indisputable. They lie at the foundation of the Civil Rights Act of 1866. Whether that act was authorized by the Thirteenth Amendment alone, without the support which it subsequently received from the Fourteenth Amendment, after the adoption of which it was re-enacted with some additions, my brethren do not consider it necessary to inquire. But I submit, with all respect to them, that its constitutionality is conclusively shown by their opinion. They admit, as I have said, that the Thirteenth Amendment established freedom; that there are burdens and disabilities, the necessary incidents of slavery, which constitute its substance and visible form; that Congress, by the act of 1866, passed in view of the Thirteenth Amendment, before the Fourteenth was adopted, undertook to remove certain burdens and disabilities, the necessary incidents of slavery, and to secure to all citizens of every race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom, namely, the same right to make and enforce contracts, to sue be parties, give evidence, and to inherit, purchase, lease, sell and convey property as is enjoyed by white citizens; that under the Thirteenth Amendment, Congress has to do with slavery and its incidents; and that legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involun-

tary servitude, may be direct and primary, operating upon the acts of individuals whether sanctioned by State legislation or not. These propositions being conceded, it is impossible, as it seems to me, to question the constitutional validity of the Civil Rights Act of 1866. I do not contend that the Thirteenth Amendment vests Congress with authority, by legislation, to define and regulate the entire body of the civil rights which citizens enjoy, or may enjoy, in the several States. But I hold that since slavery, as the court has repeatedly declared, *Slaughter-house Cases*. 16 Wall. 36; *Strauder* v. *West Virginia*, 100 U. S. 303, was the moving or principal cause of the adoption of that amendment, and since that institution rested wholly upon the inferiority as a race, of those held in bondage, their freedom necessarily involved immunity from, and protection against all discrimination against them because of their race, in respect of such civil rights as belong to freemen of other races. Congress, therefore, under its express power to enforce that amendment by appropriate legislation, may enact laws to protect that people against the deprivation, *because of their race*, of any civil rights granted to other freemen in the same State; and such legislation may be of a direct and primary character, operating upon States, their officers and agents, and, also, upon, at least, such individuals and corporations as exercise public functions and wield power and authority under the State.

To test the correctness of this position, let us suppose that, prior to the adoption of the Fourteenth

Amendment, a State had passed a statute denying to freemen of African descent, resident within its limits, the same right which was accorded to white persons, of making and enforcing contracts, and of inheriting, purchasing, leasing, selling and conveying property; or a statute subjecting colored people to severer punishment for particular offences than was prescribed for white persons, or excluding that race from the benefit of the laws exempting homesteads from execution. Recall the legislation of 1865-6 in some of the States, of which this court, in the *Slaughter-house Cases*, said, that it imposed upon the colored race onerous disabilities and burdens; curtailed their rights in the pursuits of life, liberty and property to such an extent that their freedom was of little value; forbade them to appear in the towns in any other character than menial servants; required them to reside on and cultivate the soil, without the right to purchase or own it; excluded them from many occupations of gain, and denied them the privilege of giving testimony in the courts where a white man was a party. 16 Wall. 57. Can there be any doubt that all such enactments might have been reached by direct legislation upon the part of Congress under its express power to enforce the Thirteenth Amendment? Would any court have hesitated to declare that such legislation imposed badges of servitude in conflict with the civil freedom ordained by that amendment? That it would have been in conflict with the Fourteenth Amendment, because inconsistent with the fundamental rights of American citi-

zenship, does not prove that it would have been consistent with the Thirteenth Amendment.

What has been said is sufficient to show that the power of Congress under the Thirteenth Amendment is not necessarily restricted to legislation against slavery as an institution upheld by positive law, but may be exerted to the extent, at least, of protecting the liberated race against discrimination in respect of legal rights belonging to freemen, where such discrimination is based upon race.

It remains now to inquire what are the legal rights of colored persons in respect of the accommodations, privileges and facilities of public conveyances, inns and places of public amusement?

First, as to public conveyances on land and water. In *New Jersey Steam Navigation Co.* v. *Merchants' Bank*, 6 How. 344, this court, speaking by Mr. Justice Nelson, said that a common carrier is "in the exercise of a sort of public office, and has public duties to perform, from which he should not be permitted to exonerate himself without the assent of the parties concerned." To the same effect is *Munn* v. *Illinois*, 94 U. S. 113. In *Olcott* v. *Supervisors*, 16 Wall. 678, it was ruled that railroads are public highways, established by authority of the State for public use; that they are none the less public highways, because controlled and owned by private corporations; that it is a part of the function of government to make and maintain highways for the convenience of the

public ; that no matter who is the agent, or what is the agency, the function performed is *that of the State ;* that although the owners may be private companies, they may be compelled to permit the public to use these works in the manner in which they can be used ; that, upon these grounds alone, have the courts sustained the investiture of railroad corporations with the State's right of eminent domain, or the right of municipal corporations, under legislative authority, to assess, levy and collect taxes to aid in the construction of railroads. So in *Township of Queensbury* v. *Culver*, 19 Wall. 83, it was said that a municipal subscription of railroad stock was in aid of the construction and maintenance of a public highway, and for the promotion of a public use. Again, in *Township of Pine Grove* v. *Talcott*, 19 Wall. 666: "Though the corporation [railroad] was private, its work was public, as much so as if it were to be constructed by the State." To the like effect are numerous adjudications in this and the State courts with which the profession is familiar. The Supreme Judicial Court of Massachusetts, in *Inhabitants of Worcester* v. *The Western R. R. Corporation*, 4 Met. 564, said in reference to a railroad :

"The establishment of that great thoroughfare is regarded as a public work, established by public authority, intended for the public use and benefit, the use of which is secured to the whole community, and constitutes, therefore, like a canal, turn-pike, or highway, a public easement. . . . It is true that the real and personal property, necessary to the establishment

and management of the railroad, is vested in the corporation; but it is in trust for the public." In *Erie, etc., R. R. Co.* v. *Casey*, 26 Penn St. 287, the court, referring to an act repealing the charter of a railroad, and under which the State took possession of the road, said: "It is a public highway, solemnly devoted to public use. When the lands were taken it was for such use, or they could not have been taken at all. . . . Railroads established upon land taken by the right of eminent domain by authority of the commonwealth, created by her laws as thoroughfares for commerce, are her highways. No corporation has property in them, though it may have franchises annexed to and exercisable within them."

In many courts it has been held that because of the public interest in such a corporation the land of a railroad company cannot be levied on and sold under execution by a creditor. The sum of the adjudged cases is that a railroad corporation is a government agency, created primarily for public purposes, and subject to be controlled for the public benefit. Upon this ground the State, when unfettered by contract, may regulate, in its discretion, the rates of fares of passengers and freight. And upon this ground, too, the State may regulate the entire management of railroads in all matters affecting the convenience and safety of the public; as, for example, by regulating speed, compelling stops of prescribed length at stations, and prohibiting discriminations and favoritism. If the corporation neglect or refuse to discharge its duties to the public, it may be coerced to do so by

appropriate proceedings in the name or in behalf of the State.

Such being the relations these corporations hold to the public, it would seem that the right of a colored person to use an improved public highway, upon the terms accorded to freemen of other races, is as fundamental, in the state of freedom established in this country, as are any of the rights which my brethren conceive to be so far fundamental as to be deemed the essence of civil freedom. "Personal liberty consists," says Blackstone, "in the power of locomotion, of changing situation, or removing one's person to whatever places one's own inclination may direct, without restraint, unless by due course of law." But of what value is this right of locomotion, if it may be clogged by such burdens as Congress intended by the act of 1875 to remove? They are burdens which lay at the very foundation of the institution of slavery as it once existed. They are not to be sustained, except upon the assumption that there is, in this land of universal liberty, a class which may still be discriminated against, even in respect of rights of a character so necessary and supreme, that deprived of their employment in common with others, a freeman is not only branded as one inferior and infected, but, in the competitions of life, is robbed of some of the most essential means of existence; and all this solely because they belong to a particular race which the nation has liberated. The Thirteenth Amendment alone obliterated the race line, so far as all rights fundamental in a state of freedom are concerned.

Second, as to inns. The same general observations which have been made as to railroads are applicable to inns. The word 'inn' has a technical legal signification. It means, in the act of 1875, just what it meant at common law. A mere private boarding-house is not an inn, nor is its keeper subject to the responsibilities, or entitled to the privileges of a common innkeeper. "To constitute one an innkeeper, within the legal force of that term, he must keep a house of entertainment or lodging for all travelers or wayfarers who might choose to accept the same, being of good character or conduct." Redfield on Carriers, etc., § 775.

The United States Government is divided into three co-ordinate departments :—(1) Legislative, (2) Executive, (3) Judiciary. These departments are an obscure deception to the negro. These departments are upheld and supported by 8,000,000 black people, and scarcely one escapes the dreadful discrimination which in all cases means respectable accommodation for the white man and disrespectable accommodation for the black man.

SALUS-POPULI-SUPRE MA-EST-LEX.

When the welfare of a race is evinced in the supreme law of the nation, and that law disfranchises that race, then where shall the race appeal. Certainly the colored race has appealed to Almighty God, to

whom may glory and praise be given for ever. As Abraham Lincoln was instrumental in bringing about freedom of the black race, so will the Almighty plant within the hearts of such heroes as John Brown and Fred. Douglas a seed of right, and it will grow and ultimately overshadow the wrong. It is noticeable that the evil forces rush on the negro with one accord: that is, all the leaders of the American Government apparently have secret consultation as to the treatment of a black man. Even merchants, hotel men, livery stable men, news men, and train men, all drift conjointly against the negro to uphold their own affairs, and especially do the colored man out of his rights and earnings. The following clipping from a Decatur daily newspaper will serve readily in support of the foregoing statement:—

UNDER THE CIVIL RIGHTS BILL.

"Nay Boggess was in Blue Mound yesterday to prosecute a case where J. C. Coleman sues to recover $200 damages from Landlord Blair. Coleman is a negro and declares that he was denied entertainment at Blair's hostelry. The case was to have been heard yesterday before Justice Tidd, but Coleman telegraphed from McLean county that he was detained there by the illness of his wife, and on this plea the case was continued until Monday next. It is likely that the case will be dismissed at Blue Mound and be re-instituted in the circuit court."

The above article appeared in one of the Deca-

tur, Ill., daily leading newspapers in the summer of 1894. The editorial staff no doubt were aware of the procedure and termination of all such cases, otherwise the prediction that the "case would be dismissed in Blue Mound and re-instituted in the circuit court," could not have been so frankly and authentically announced. The numerous disappointments attending my struggle to obtain justice in this case are so multitudinous space cannot just here be allotted for further explanation. Some incidents connected with the travel during the summer of 1894 in the "great" State of Illinois are of praiseworthy importance to the reader on other pages.

CHAPTER II.

IMPOSITION.

It may be conceded that the observations are synonymous, in that they express the sum and substance of the first observation under the caption INJUSTICE. In the preceding chapter we have brought out clearly the Discriminating elements. The imposing forces expand as fast as the white population increases in the Southern States, and has developed into many Northern "quarters." The great, the small, the rich and the poor, the high and the low, white persons, all have their way of bantering their colored brother. As a rule young white men and young colored men are at variance with each other. The same may be said of young white and colored women. The "whites" of both sexes avoid politeness with the colored to show their superiority. Children are innocent. The poor boy, whose father is the servant of a millionaire, can usually find room in the play yard of the millionaire's children; but this is not so in the case of the white and colored boy. The white boy early learns that the colored boy must eat last, drink last, pass through the gate last, and have the last choice of the toys.

One of the most singular and inhuman habits the American white people possess, is that of shirking

the colored people during luncheon. Their colored cook may have handled and even partaken of every piece in the dish ; but the most refined, decent—lady or gentleman alike—colored person is extremely abhorred and debarred on this occasion. We note these facts as local condition of affairs.

The general Imposition on the colored race are —(1) Lynching, (2) Discount in wages, and (3) Immoral conduct with colored women. Before beginning to elucidate these points, it is well to determine whether the black man is worthy of any defence in this direction—is he qualified for a neighbor? or does he intrude on the rights of the Government, or on the municipal rights, or on individual rights? is he a subject of charity, as many other foreign nationalities? These vital considerations and most important questions are answered to some extent in the following clipping from the Chicago *Inter-Ocean*, June 26, 1894 :—

"ONLY 46 OUT OF 4,200.

"Some interesting statistics have been furnished by the secretary of the School Children's Aid Society relative to the work done during the winter of 1893-94. As is generally known, the society is an outgrowth and under the direct patronage of the Chicago Women's Club. It was organized after the enactment of the compulsory education law of Illinois for the purpose of clothing the children of the poor who

otherwise would be able to attend school. The past season will long be remembered as one of unusual suffering, and the society expended a sum amounting to $8,521.29.

"The money was chiefly spent in purchasing shoes, boys' clothing, and material for girls' dresses, skirts, and aprons. The matter of nationality is a most interesting item in the report. Of those aided, 1,115 were Irish, 995 German, 572 Americans, 328 Bohemians, 233 English, 184 Jews, 198 Italians, 156 Norwegians, 180 Swedes, 68 Scotch, 57 Danish, 48 French, 46 negroes, 6 Spanish, 6 Welsh, 5 Swiss. The Swiss, French, and Spanish form a comparatively small per cent. of the population of Chicago, while the thrifty and industrious Scotch and Danes are very numerous.

"The most striking feature, however," continued the *Daily Inter-Ocean*, June 26, 1894, "is that but forty-six negroes received assistance, and this in the face of the truth that our colored population numbers many thousands. Of the forty-six, six were discovered accidentally and sought out by the secretary, but who themselves made no appeal for relief. The mother had come to the rooms of the society for work, and when questioned said that her husband had been a janitor in a building which had been closed, but had hope of getting work in the spring. In the meantime, she said, the children could be kept at home until then, when they could buy shoes for them and send them to school. It is gratifying to know

that they were not forced to wait, but that their wants were supplied at once.

"Another virtue credited the negroes by the society is gratitude. Of all who were aided, with but few exceptions, they alone expressed any appreciation of what was done for them.

"This testimony must be of interest to those who have always insisted that the negro is a chronic beggar and hopelessly dependent. Out of 4,200 cases assisted by the society during the entire winter, but forty six were negroes."

Thousands of similar words to the above could be said of the black race. There are no noted thieves in the race, such as bank robbers, train robbers, and Government robbers—not traits of the race. We thank our God that no Rŭb Burrows and Jesse James have arose in the race of African descent. We may therefore say with propriety, The black man is worthy of defence. He is worthy of being exonerated from his present imposed state.

LYNCHING.

With prefatory statements of our indebtedness to Mrs. Ida B. Wells Barnett for her extensive *travels* in Great Britain and America, delivering expressive and impressive lectures against this horrible, disgrace-

ful, and king of all impositions upon a downtrodden people, we write what we know of the subject, and supplement some cases denounced in "The Reason Why," by Mrs. Barnett. Lynching has grown to be an event which elicits multitudes, composed of men, women and children, to cheer the participants as though some renowned act of heroism is being performed. The newspapers have given space to eulogize the lynchers instead of condemning them. The journals of to-day have grown so high in public favor that seven out of every ten readers will firmly believe the current reports. Even some of the Northern black people themselves are to some extent in sympathy with the lynchers, believing that their own men are so vile and brutish that they deserve such heinous punishment.

The question is everywhere heard, "Why do they lynch the colored people down South?" The general presumption is that colored men are "struck" after the white women. Why were they not hankering after them during slavery? Why did the master leave his slave to wait on his family during the war of 1861-5, while he engaged in battle? Colored men were honest in the dark days of slavery, and they are honest now. The ascension of the colored people of the South to high seats of honor, and the fear that they will ultimately predominate, have some "say so" in these lynches. I have known blood-thirsty mobs to appoint one of their own men to assault some young woman who would not yield to a member of the mob, to black his face and fix like a

"Nigger," and remain in secrecy until a chance presented itself, then suddenly light upon his prey armed with a revolver. After reaching his highest point of ambition—the mob is called to lynch some innocent black-man for the outrageous deed of a man of another color. The visit of Madame Barnett to England in behalf of the black people of America, drew more favor for the race than Hon. Fred. Douglass or some other distinguished colored man could have drawn. It was not a man defending his own sex, but a young lady, having been educated at Holly Springs, Miss., and labored with her own people and for her own people in the South, who went to England in defence of the innocent men falling victims to the mobs, and being deprived of legal hearing or trial. "Rape" is the prevalent charge—the mob is the criterion. This condition of things are grievous—and more so when we see other accusations brought against men, women and children of the black race, and lynchings being the result before proper course has been taken to decide whether they are innocent or guilty, which will be further seen in the following contribution, by Ida B. Wells Barnett:

LYNCH LAW.

BY IDA B. WELLS BARNETT.

"Lynch Law," says the *Virginia Lancet*, "as known by that appellation, had its origin in 1780 in a combination of citizens of Pittsylvania County, Virginia, entered into for the purpose of suppressing a

trained band of horse-thieves and counterfeiters whose well concocted schemes had bidden defiance to the ordinary laws of the land, and whose success encouraged and emboldened them in their outrages upon the community. Col. Wm. Lynch drafted the constitution for this combination of citizens, and hence 'Lynch Law' has ever since been the name given to the summary infliction of punishment by private and unauthorized citizens."

This law continues in force to-day in some of the oldest states of the Union, whose courts of justice have long been established, whose laws are executed by white Americans. It flourishes most largely in the states which foster the convict lease system, and is brought to bear mainly, against the Negro. The first fifteen years of his freedom he was murdered by masked mobs for trying to vote. Public opinion having made lynching for that cause unpopular, a new reason is given to justify the murders of the past 15 years. The Negro was first charged with attempting to rule white people, and hundreds were murdered on that pretended supposition. He is now charged with assaulting or attempting to assault white women. This charge, as false as it is foul, robs us of the sympathy of the world and is blasting the race's good name.

The men who make these charges encourage or lead the mobs which do the lynching. They belong to the race which holds Negro life cheap, which owns the telegraph wires, newspapers, and all other com-

munication with the outside world. They write the reports which justify lynching by painting the Negro as black as possible, and those reports are accepted by the press associations and the world without question or investigation. The mob spirit has increased with alarming frequency and violence. Over a thousand black men, women and children have been thus sacrificed the past ten years. Masks have long since been thrown aside and the lynchings of the present day take place in broad daylight. The sheriffs, police and state officials stand by and see the work well done. The coroner's jury is often formed among those who took part in the lynching and a verdict, "Death at the hands of parties unknown to the jury" is rendered. As the number of lynchings have increased, so has the cruelty and barbarism of the lynchers. Three human beings was burned alive in civilized America during the first six months of this year (1893). Over one hundred have been lynched in this half year. They were hanged, then cut, shot and burned.

The following table published by the Chicago *Tribune*, January, 1892, is submitted for thoughtful consideration.

1882,	52	Negroes	murdered	by mobs.
1883,	39	"	"	"
1884,	53	"	"	"
1885,	77	"	"	"
1886,	73	"	"	"
1887,	70	"	"	"

1888,	72	Negroes	murdered	by mobs.
1889,	95	"	"	"
1890,	100	"	"	"
1891,	169	"	"	"

Of this number,

269	were	charged	with rape.
253	"	"	" murder.
44	"	"	" robbery.
37	"	"	" incendiarism.
4	"	"	" burglary.
27	"	"	" race prejudice.
13	"	"	" quarrelling with white men.
10	"	"	" making threats.
7	"	"	" rioting.
5	"	"	" miscegenation.
32	"	"	" no reason given.

This table shows (1) that only one-third of nearly a thousand murdered black persons have been even charged with the crime of outrage. This crime is only so punished when white women accuse black men, which accusation is never proven. The same crime committed by Negroes against Negroes, or by white men against black women is ignored even in the law courts.

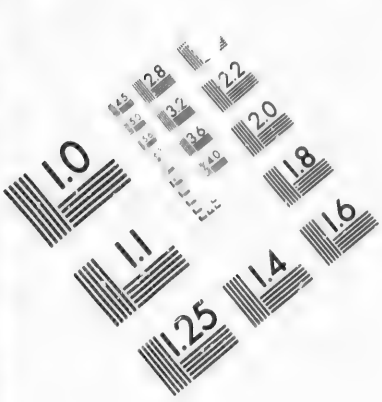
(2) That nearly as many were lynched for murder as for the above crime, which the world believes is the cause of all the lynchings. The world affects to believe that *white* womanhood and childhood, surrounded by their lawful protectors, are not safe in the

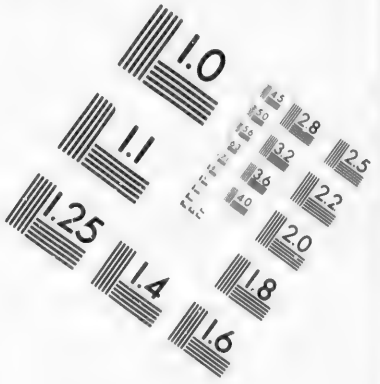
neighborhood of the black man. who protected and cared for them during the four years of civil war. The husbands, fathers and brothers of those white women were away for four years, fighting to keep the Negro in slavery, yet not one case of assault has ever been reported!

(3) That "robbery, incendiarism, race prejudice, quarrelling with white men, making threats, rioting, miscegenation (marrying a white person), and burglary," are capital offences punishable by death when committed by a black against a white person. Nearly as many blacks were lynched for these charges (and unproven) as for the crime of rape.

(4) That for nearly fifty of these lynchings no reason is given. There is no demand for reasons, or need of concealment for what no one is held responsible. The simple word of any white person against a Negro is sufficient to get a crowd of white men to lynch a negro. Investigation as to the guilt or innocence of the accused is never made. Under these conditions, white men have only to blacken their faces, commit crimes against the peace of the community, accuse some Negro, nor rest till he is killed by a mob. Will Lewis, an 18 year old Negro youth was lynched at Tullahoma, Tennessee, August, 1891, for being "drunk and saucy to white folks."

The women of the race have not escaped the fury of the mob. In Jackson, Tennessee, in the summer of 1886, a white woman died of poisoning.





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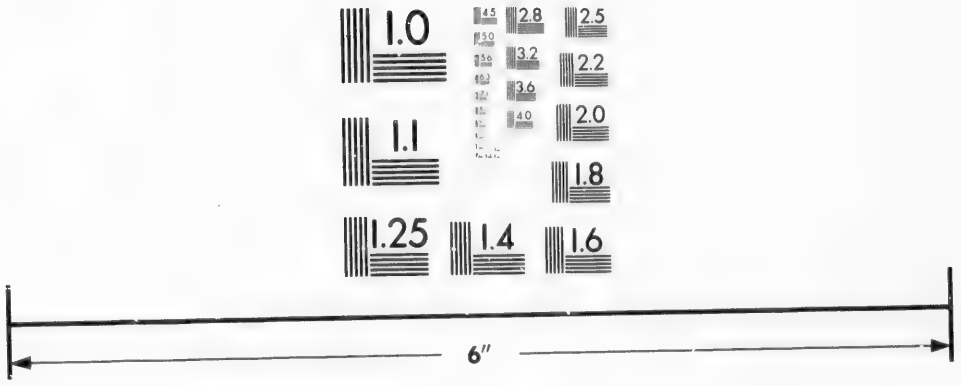

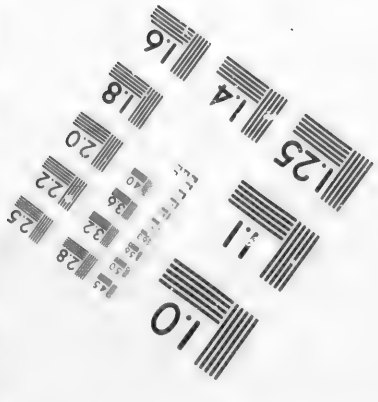

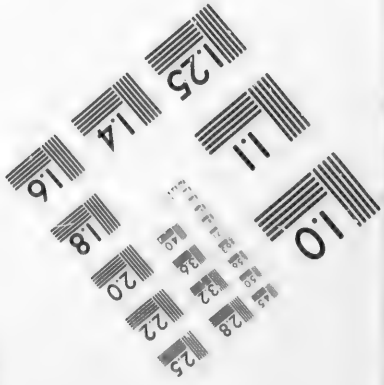

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Her black cook was suspected, and as a box of rat poison was found in her room, she was hurried away to jail. When the mob had worked itself to the lynching pitch, she was dragged out of jail, every stitch of clothing torn from her body, and she was hung in the public court-house square in sight of everybody. Jackson is one of the oldest towns in the State, and the State Supreme Court holds its sittings there; but no one was arrested for the deed—not even a protest was uttered. The husband of the poisoned woman has since died a raving maniac, and his ravings showed that he, and not the poor black cook, was the poisoner of his wife. A fifteen year old negro girl was hanged in Rayville, Louisiana, in the Spring of 1892, on the same charge of poisoning white persons. There was no more proof or investigation of this case than the one in Jackson. A negro woman, Lou Stevens, was hanged from a railway bridge in Hollendale, Mississippi, in 1892. She was charged with being accessory to the murder of her white paramour, who had shamefully abused her.

In 1892 there were 240 persons lynched. The entire number is divided among the following States:

Alabama	22	Montana	4
Arkansas	25	New York	1
California	3	North Carolina	5
Florida	11	North Dakota	1
Georgia	17	Ohio	3
Idaho	8	South Carolina	5

Illinois	1	Tennessee	28
Kansas	3	Texas	15
Kentucky	9	Virginia	7
Louisiana	29	West Virginia	5
Maryland	1	Wyoming	9
Mississippi	16	Arizona Ter.	3
Missouri	6	Oklahoma	2

Of this number 160 were of Negro descent. Four of them were lynched in New York, Ohio and Kansas; the remainder were murdered in the south. Five of this number were females. The charges for which they were lynched cover a wide range. They are as follows:

Rape - -	46	Attempted Rape -	11
Murder - -	58	Suspected Robbery	4
Rioting - -	3	Larceny - -	1
Race prejudice -	6	Self defense -	1
No cause given	4	Insulting women -	2
Incendiarism -	6	Desperadoes -	6
Robbery -	6	Fraud - -	1
Assault and Battery	1	Attempted murder	2
No offense stated, boy and girl -			2

In the case of the boy and girl above referred to, their father, named Hastings, was accused of the murder of a white man; his fourteen year old daughter and sixteen year old son were hanged and their bodies filled with bullets, then the father was also lynched. This was in November, 1892, at Jonesville, Louisiana.

A lynching equally as cold-blooded took place in Memphis, Tennessee, March, 1892. Three young colored men in an altercation at their place of business, fired on white men in self-defense. They were imprisoned for three days, then taken out by the mob and horribly shot to death. Thomas Moss, Will Stewart and Calvin McDowell, were energetic business men who had built up a flourishing grocery business. This business had prospered and that of a rival white grocer named Barrett had declined. Barrett led the attack on their grocery which resulted in the wounding of three white men. For this cause were three innocent men barbarously lynched, and their families left without protectors. Memphis is one of the leading cities of Tennessee, a town of seventy-five thousand inhabitants! No effort whatever was made to punish the murderers of these three men. It counted for nothing that the victims of this outrage were three of the best known young men of a population of thirty thousand colored people of Memphis. They were the officers of the company which conducted the grocery. Moss being the President, Stewart the Secretary of the Company and McDowell the Manager. Moss was in the Civil Service of the United States as letter carrier, and all three were men of splendid reputation for honesty, integrity and sobriety. But their murderers, though well-known, have never been indicted, were not even troubled with a preliminary examination.

With law held in such contempt, it is not a matter of surprise that the same city—one of the so-called

queen cities of the South, should again give itself over to a display of almost indescribable barbarism. This time the mob made no attempt to conceal its identity, but reveled in the contemplation of its feast of crime. Lee Walker, a colored man was the victim. Two white women complained that while driving to town, a colored man jumped from a place of concealment and dragged one of the two women from the wagon, but their screams frightened him away. Alarm was given that a Negro had made an attempted assault upon the women and bands of men set out to run him down. They shot a colored man who refused to stop when called. It was fully ten days before Walker was caught. He admitted that he did attack the women, but that he made no attempt to assault them ; that he offered them no indecency whatever, of which as a matter of fact, they never accused him. He said he was hungry and he was determined to have something to eat, but after throwing one of the women out of the wagon, became frightened and ran away. He was duly arrested and taken to the Memphis jail. The fact that he was in prison and could be promptly tried and punished did not prevent the good citizens of Memphis from taking the law in their own hands, and Walker was lynched.

The *Memphis Commercial* of Saturday, July 23, contains a full account of the tragedy from which the following extracts are made :

At 12 o'clock last night, Lee Walker, who attempted to outrage Miss Mollie McCadden, last Tues-

day morning, was taken from the county jail and hanged to a telegraph pole just north of the prison. All day rumors were afloat that with nightfall an attack would be made upon the jail, and as everyone anticipated that a vigorous resistance would be made, a conflict between the mob and the authorities was feared.

At 10 o'clock Capt. O'Haver, Sergt. Horan and several patrol men were on hand, but they could do nothing with the crowd. An attack by the mob was made on the door in the south wall and it yielded. Sheriff McLendon and several of his men threw themselves into the breach, but two or three of the storming party shoved by. They were seized by the police but were not subdued, the officers refraining from using their clubs. The entire mob might at first have been dispensed by ten policemen who would use their clubs, but the sheriff insisted that no violence be done.

The mob got an iron rail and used it as a battering ram against the lobby doors. Sheriff McLendon tried to stop them, and some one of the mob knocked him down with a chair. Still he counseled moderation and would not order his deputies and the police to disperse the crowd by force. The pacific policy of the sheriff impressed the mob with the idea that the officers were afraid, or at least would do them no harm, and they redoubled their efforts, urged on by a big switchman. At 12 o'clock the door of the prison was broken in with a rail.

As soon as the rapist was brought to the door, calls were heard for a rope ; then some one shouted "Burn him!" But there was no time to make a fire. When Walker got into the lobby a dozen of the men began beating and stabbing him. He was half dragged, half carried to the corner of Front street and the alley between Sycamore and Mill, and hung to a telephone pole.

Walker made a desperate resistance. Two men entered his cell first and ordered him to come forth. He refused and they failing to drag him out others entered. He scratched and bit his assailants, wounding several of them severely with his teeth. The mob retaliated by striking and cutting him with fists and knives. When he reached the steps leading down to the door he made another stand and was stabbed again and again. By the time he reached the lobby his power to resist was gone, and he was shoved along through the mob of yelling, cursing men and boys, who beat, spat upon and slashed the wretched-like demon. One of the leaders of the mob fell, and the crowd walked ruthlessly over him. He was badly hurt—a jawbone fractured and internal injuries inflicted. After the lynching friends took charge of him.

The mob proceeded north on Front street with the victim, stopping at Sycamore street to get a rope from a grocery. "Take him to the iron bridge on Main street," yelled several men. The men who had hold of the Negro were in a hurry to finish the job, however, and when they reached the telephone pole

at the corner of Front street and the first alley north of Sycamore they stopped. A hastily improvised noose was slipped over the Negro's head and several young men mounted a pile of lumber near the pole and threw the rope over one of the iron stepping pins. The Negro was lifted up until his feet were three feet above the ground, the rope was made taut, and a corpse dangled in mid-air. A big fellow who helped lead the mob pulled the Negro's legs until his neck cracked. The wretch's clothes had been torn off, and as he swung, the man who pulled his legs mutilated the corpse.

One or two knife cuts, more or less, made little difference in the appearance of the dead rapist, however, for before the rope was around his neck his skin was cut almost to ribbons. One pistol shot was fired while the corpse was hanging. A dozen voices protested against the use of firearms, and there was no more shooting. The body was permitted to hang for half an hour, then it was cut down and the rope divided among those who lingered around the scene of the tragedy. Then it was suggested that the corpse be burned, and it was done. The entire performance, from the assault on the jail to the burning of the dead Negro was witnessed by a score or so of policemen and as many deputy sheriffs, but not a hand was lifted to stop the proceedings after the jail door yielded.

As the body hung to the telegraph pole, blood streaming down from the knife wounds in his neck,

his hips and lower part of his legs also slashed with knives, the crowd hurled expletives at him, swung his body so that it was dashed against the pole, and, so far from the ghastly sight proving trying to the nerves, the crowd looked on with complaisance, if not with real pleasure. The Negro died hard. The neck was not broken, as the body was drawn up without being given a fall, and death came by strangulation. For fully ten minutes after he was strung up the chest heaved occasionally and there were convulsive movements of the limbs. Finally he was pronounced dead, and a few minutes later Detective Richardson climbed on a pile of staves and cut the rope. The body fell in a ghastly heap, and the crowd laughed at the sound and crowded around the prostrate body, a few kicking the inanimate carcass.

Detective Richardson, who is also a deputy coroner, then proceeded to impanel the following jury of inquest: J. S. Moody, A. C. Waldran, B. J. Childs, J. N. House, Nelson Bills, T. L. Smith, and A. Newhouse. After viewing the body the inquest was adjourned without any testimony being taken until 9 o'clock this morning. The jury will meet at the coroner's office, 51 Beale street, upstairs, and decide on a verdict. If no witnesses are forthcoming, the jury will be able to arrive at a verdict just the same, as all members of it saw the lynching. Then some one raised the cry of, "Burn him!" It was quickly taken up and soon resounded from a hundred throats. Detective Richardson for a long time, single handed,

stood the crowd off. He talked and begged the men not to bring disgrace on the city by burning the body, arguing that all the vengeance possible had been wrought.

While this was going on a small crowd was busy starting a fire in the middle of the street. The material was handy. Some bundles of staves were taken from the adjoining lumber yard for kindling. Heavier wood was obtained from the same source, and coal oil from a neighboring grocery. Then the cries of "Burn him! Burn him!" were redoubled.

Half a dozen men seized the naked body. The crowd cheered. They marched to the fire, and giving the body a swing, it was landed in the middle of the fire. There was a cry for more wood, as the fire had begun to die, owing to the long delay. Willing hands procured the wood, and it was piled up on the Negro, almost, for a time, obscuring him from view. The head was in plain view, as also were the limbs, and one arm which stood out high above the body, the elbow crooked, held in that position by a stick of wood. In a few moments the hands began to swell, then came great blisters over all the exposed parts of the body; then in places the flesh was burned away and the bones began to show through. It was a horrible sight, one which perhaps none there had ever witnessed before. It proved too much for a large part of the crowd, and the majority of the mob left very shortly after the burning began.

But a large number stayed, and were not a bit set back by the sight of a human body being burned to ashes. Two or three white women, accompanied by their escorts, pushed to the front to obtain an unobstructed view, and looked on with astonishing coolness and nonchalance. One man and woman brought a little girl, not over 12 years old, apparently their daughter, to view a scene which was calculated to drive sleep from the child's eyes for many nights, if not to produce a permanent injury to her nervous system. The comments of the crowd were varied. Some remarked on the efficacy of this style of cure for rapists, others rejoiced that men's wives and daughters were now safe from this wretch. Some laughed as the flesh cracked and blistered, and while a large number pronounced the burning of a dead body as a useless episode, not in all that throng was a word of sympathy heard for the wretch himself.

The rope that was used to hang the Negro, and also that which was used to lead him from the jail, were eagerly sought by relic hunters. They almost fought for a chance to cut off a piece of rope, and in an incredibly short time both ropes had disappeared and were scattered in the pockets of the crowd in sections of from an inch to six inches long. Others of the relic hunters remained until the ashes cooled to obtain such ghastly relics as the teeth, nails and bits of charred skin of the immolated victim of his own lust. After burning the body the mob tied a rope around the charred trunk and dragged it down Main Street to the court house, where it was hanged

to a centre pole. The rope broke and the corpse dropped with a thud, but it was again hoisted, the charred legs barely touching the ground. The teeth were knocked out and the finger nails cut off as souvenirs. The crowd made so much noise that the police interfered. Undertaker Walsh was telephoned for, who took charge of the body and carried it to his establishment, where it will be prepared for burial in the potter's field to-day.

A prelude to this exhibition of 19th century barbarism was the following telegram received by the Chicago *Inter-Ocean*, at 2 o'clock, Saturday afternoon —ten hours before the lynching :

"MEMPHIS, TENN., July 22. To *Inter-Ocean*, Chicago.

"Lee Walker, colored man, accused of raping white women, in jail here, will be taken out and burned by whites to-night. Can you send Miss Ida Wells to write it up? Answer. R. M. Martin, with *Public Ledger*."

The *Public Ledger* is one of the oldest evening daily papers in Memphis, and this telegram shows that the intentions of the mob were well known long before they were executed. The personnel of the mob is given by the Memphis *Appeal-Avalanche*. It says, "At first it seemed as if a crowd of roughs were the principals, but as it increased in size, men in all walks of life figured as leaders, although the majority were young men."

This was the punishment meted out to a Negro, charged, not with rape, but attempted assault, and without any proof as to his guilt, for the women were not given a chance to identify him. It was only a little less horrible than the burning alive of Henry Smith, at Paris, Texas, February 1st, 1893, or that of Edward Coy, in Texarkana, Texas, February 20, 1892. Both were charged with assault on white women, and both were tied to the stake and burned while yet alive, in the presence of ten thousand persons. In the case of Coy, the white woman in the case, applied the match, even while the victim protested his innocence.

In some of these cases the mob affects to believe in the Negro's guilt. The world is told that the white woman in the case identifies him, or the prisoner "confesses." But in the lynching which took place in Barnwell County, South Carolina, April 24, 1893, the mob's victim, John Peterson, escaped and placed himself under Governor Tillman's protection; not only did he declare his innocence, but offered to prove an alibi with white witnesses. Before his witnesses could be brought, the mob arrived at the Governor's mansion and demanded the prisoner. He was given up, and although the white woman in the case said he was *not* the man, he was hanged 24 hours after, and over a thousand bullets fired into his body, on the declaration that "a crime had been committed, and some one had to hang for it."

The lynching of C. J. Miller, at Bardwell, Ken-

tucky, July 7, 1893, was on the same principle. Two white girls were found murdered near their home on the morning of July 5th ; their bodies were horribly mutilated. Although their father had been instrumental in the prosecution and conviction of one of his white neighbors for murder, that was not considered as a motive. A hue and cry was raised that some Negro had committed rape and murder, and a search was immediately begun for a Negro. A blood hound was put on the trail which he followed to the river and into the boat of a fisherman named Gordon. This fisherman said he had rowed a white man, or a very fair mulatto across the river at six o'clock the evening before. The bloodhound was carried across the river, took up the trail on the Missouri side, and ran about two hundred yards to the cottage of a white farmer, and there lay down refusing to go further.

Meanwhile a strange Negro had been arrested in Sikestown, Missouri, and the authorities telegraphed that fact to Bardwell, Kentucky. The sheriff, without requisition, escorted the prisoner to the Kentucky side and turned him over to the authorities who accompanied the mob. The prisoner was a man with dark brown skin ; he said his name was Miller and that he had never been in Kentucky. The fisherman who had said the man he rowed over was white, when told by the sheriff that he would be held responsible as knowing the guilty man, if he failed to identify the prisoner, said Miller was the man. The mob wished to burn him then, about ten o'clock in the

morning, but Mr. Ray, the father of the girls, with great difficulty urged them to wait till three o'clock that afternoon. Confident of his innocence, Miller remained cool, while hundreds of drunken, heavily armed men raged about him. He said: "My name is C. J. Miller, I am from Springfield, Ill., my wife lives at 716 North Second Street. I am here among you to-day looked upon as one of the most brutal men before the people. I stand here surrounded by men who are excited; men who are not willing to let the law take its course, and as far as the law is concerned, I have committed no crime, and certainly no crime gross enough to deprive me of my life or liberty to walk upon the green earth. I had some rings which I bought in Bismarck of a Jew peddler. I paid him $4.50 for them. I left Springfield on the first day of July and came to Alton. From Alton I went to East St. Louis, from there to Jefferson Barracks, thence to Desoto, thence to Bismarck; and to Piedmont, thence to Poplar Bluff, thence to Hoxie, to Jonesboro, and then on a local freight to Malden, from there to Sikeston. On the 5th day of July, the day I was supposed to have committed the offense, I was at Bismarck."

Failing in any way to connect Miller with the crime, the mob decided to give him the benefit of the doubt and *hang, instead of burn him*, as was first intended. At 3 o'clock, the hour set for the execution, the mob rushed into the jail, tore off Miller's clothing and tied his shirt around his loins. Some one said the rope was "a white man's death," and a log-

chain nearly a hundred feet in length, weighing nearly a hundred pounds was placed about his neck. He was led through the street in that condition and hanged to a telegraph pole. After a photograph of him was taken as he hung, his fingers and toes cut off, and his body otherwise horribly mutilated, it was burned to ashes. This was done within twelve hours after Miller was taken prisoner. Since his death, his assertions regarding his movements have been proven true. But the mob refused the necessary time for investigation.

No more appropriate close for this chapter can be given than an editorial quotation from that most consistent and outspoken journal the *Inter-Ocean.* Commenting on the many barbarous lynchings of these two months (June and July) in its issue of August 5th, 1893, it says :

"So long as it is known that there is one charge against a man which calls for no investigation before taking his life there will be mean men seeking revenge ready to make that charge. Such a condition would soon destroy all law. It would not be tolerated for a day by white men. But the Negroes have been so patient under all their trials that men who no longer feel that they can safely shoot a Negro for attempting to exercise his right as a citizen at the polls are ready to trump up any other charge that will give them the excuse for their crime. It is a singular coincidence that as public sentiment has been hurled against political murders there has been

a corresponding increase in lynchings on the charge of attacking white women. The lynchings are conducted in much the same way that they were by the Ku-Klux Klans when Negroes were mobbed for attempting to vote. The one great difference is in the cause which the mob assigns for its action.

The real need is for a public sentiment in favor of enforcing the law and giving every man, white and black, a fair hearing before the lawful tribunals. If the plan suggested by the Charleston *News and Courier* will do this let it be done at once. No one wants to shield a fiend guilty of these brutal attacks upon unprotected women. But the Negro has as good a right to a fair trial as the white man, and the South will not be free from these horrible crimes of mob law so long as the better class of citizens try to find excuse for recognizing Judge Lynch."

The lynching of C. J. Miller at Bardwell, Ky., July 7, 1893, referred to in Madam Barnett's writings, has not only been declared barbarism, outrageous, and outlawry, but a mistake by the lynchers themselves, as stated in Madam Barnett's comment.

While in Fulton, Ky., a few days after the horrible deed of lynching Mr. Miller by the people of Bardwell and volunteers, the writer saw thousands of bills posted, nullifying the action of the mob in the case of Mr. Miller, and urging that some other

"Nigger" be implicated in the crime, and lynched to "make up" for the death of the two Ray sisters.

Fulton is situated on the Illinois Central R. R, about 28 miles south of Bardwell. Every train from the South bound for the Chicago World's Columbian Exposition, bore a host of interested passengers to see the ashes of the innocent man burned at Bardwell. Applications were made to the conductors to stop long enough at Bardwell to see the "sight." The writer was the only one of his nationality on board the train which stopped at the scene. On the morning of July 28th, 1893, in the business part of the town of Bardwell, about 50 yards from the Illinois Central station, the remains of one of the most uncivil deeds perpetrated upon an innocent man in a Christian country and civil government, could be pitifully viewed from the platform or window of the car.

Coleman at Decatur, Ill.

Imposition in Northern "Quarters."

Decatur has been mentioned elsewhere in this book. It is the third railway centre in the 3rd productive State in the U. S. Its population is 20,000. It is about 40 miles from Lincoln, where a log cabin, as a relic of the martyred President, Abraham Lincoln, remains. There are three Churches of color represented in Decatur. The first innocent blood was drawn

from the neck of a colored man in 1893, and shed upon the city of Decatur by some of its "respectable" citizens, men and women. My introduction to Decatur was in June, 1894, during my visit to a "colored camp meeting." I heard it noised around that a Mr. Jackson, waiter of St Nickels Hotel, had been arrested and placed in jail on a charge of attempted "rape." The Lynch alarm had been sounded, which aroused the sympathy of the colored population to protect Jackson. Those who showed cowardice were invited to a speech delivered by the writer, urging the colored men to consolidate their forces and preclude the mob from the prisoner. Much enthusiasm was manifested while the speech was being made, and at the conclusion preparations was immediately begun to resist the murderers. Guns, revolvers, swords, knives and clubs of any dangerous description were collected and laid by for battle. The municipal authority showed no protection, *pro et con*, the movements. By 8 p.m. on the evening appointed by the mob gang, the colored men and boys were arranged in military form, being under command of general and captain, etc. The army received cheers for management, courage and promptness from the better classes of the white population.

The jail in which this prisoner was, was about four blocks from the main part of the city. The white boys who usually follow shows and excitement, had occupied the nearest seats to the jail at an early hour, anxiously waiting to see the end of Jackson's life. As I advanced accompanied by my guard, one of the

young spectators asked with a tone of delight, "Are they going to lynch the nigger to-night?" I could but give the answer, "No." Having instructed all concerned to show no uncivility to any person, but at the rise of war, put forth every exertion to save the life of the prisoner. Orders were given to the band to surround the prison. Just now I began to experience some of the actual "turns" of the battle-field. 300 black faces at one signal dotted in separate groups on all sides of the jail and court-house. At 9 o'clock a man of low stature passed along the main street, smoking sumptuously, with a rope which had been presented specially for the lynching of Jackson The rope-man was so completely absorbed in the occupation, he failed to see those who had come to see justice meted out to the prisoner, who so well deserved it. Some of his constituency within the court-rooms informed him of the danger in store; he then accepted of a hard bed in the building for the night. At this crisis absolute calmness seemed to prevail which continued until between 1 and 2 a.m., when the watchmen were disturbed by the yells of intoxicated men. Noises of teams, wagons, riders on horse-back, and some "foolers," all winding their way from country villages and bush-towns into the "big town" to kill the old "nigger." The night policemen who finally showed some degree of courtesy to the colored band, conveyed the information to the mob that "300 black men lie in wait for you; if the mob attempts to take Jackson to-night, no small number of lives will be lost." With this intelligence the blood-thirsty gang received orders from their captain on a sub-way

bridge to "retreat until the next night." A reporter from the leading newspaper of the city, who had taken in the general outlook of the affair, asked permission to address the colored "boys." Receiving permission from the proper source, he then rode amid the cool headed body of men. Lighting from his horse said, "Gentlemen, I understand that you have gathered to protect Mr. Jackson. Now I wish to inform you that you need not fear any thing like a mob from any person in Decatur." "But they are coming from the country," came a voice from some person in the rear of the crowd. "Mr. Jackson is known here as a gentleman," continued the speaker. "The circumstances in connection with this case I am fully acquainted with. Mr. Jackson and this woman were intimate, and some business men in town can verify the fact that Mr. Jackson gave her money two days ago. The story that Mr. Jackson was found in her room on her bed with a revolver a few evenings ago, is true. He was not there to force, but because she asked him there, being afraid of a policeman just outside the door. She cried out to secure herself from the law." These words were received by the company with profound respect. The Decatur papers verified the reporter's statements.

This is not, however, the end of the struggle for life. The spirit of protection was intense, and grew parallel with the "lynch fever." The following evening a greater representation of the colored population appeared on the scene. Those who failed to secure themselves with arms the previous evening, came

better fortified ; but no further attempt to enter the jail was made by the "outlawers." The third night, the municipal power intervened, and chastised the tumultousness. This was begun by the arrest of one of the colored company, Mr. Artist, who had occupied a seat in the park, which faces the front street, and who had two shot guns, and was repeatedly told to leave. This he refused to do. On this ground he was imprisoned. A committee composed of Mr. J. Artist, Mr. Oliphant, and the writer called on the Mayor. His Honor cordially received the committee, and assured the committee that "nothing to hinder the colored citizens from standing for themselves will be done. Mr. Artist will be released to-morrow morning."

From these proceedings the reader is not to conclude that such an act would stop the Southern lynchings. In a Northern city of so small a population of colored people as Decatur, it is reasonable to suppose that race war would not be tolerated, while such would be the case in the South. That the city officials were friendly to the action of the colored people is seen in the fact that there was no interference with them until the third night of the warfare, and the releasement of Mr. Artist. It should be remembered that the colored citizens were in every respect submissive to the law, only that the condition of their surroundings had grown to the doctrine, "Eye for eye, and tooth for tooth."

With an outstretched hand to fallen humanity,

and uplifted voice to God, accompanied by a painful heart, I must here appeal to Scripture facts. "All things work together for good to them that love God, to them who are the called according to His purpose." Rev. Mr. Mudd, a distinguished divine, connected himself with the colored citizens of Decatur, striving to uphold the right in the case of Mr. Jackson, who through the instrumentality of his race was given a fair trial.

CHAPTER IV.

WAGES.

Scarcely any of the wealthy people of the North, and thinkers on vital questions of the day in European nations, properly consider the salary of colored laborers of the South, as a comparison to that of the white laborer. It is universally admitted that the colored race has made rapid progress—progress worthy of praise. But in the face of destitution, educational endeavorment, exertions put forth to erect church edifices, and imposition as described in the preceding chapter, thousands of good people stand and say: "The negroes are allowed to work in nearly all the branches of labor that are in the South, and why should we help them to build their schools and churches, since they have been freed long enough to

look after themselves from a financial standpoint? and why should we try to assist them in getting their rights at law, when they don't try to assist themselves when they are outraged by the lynchers, there being as many or more colored people in some States than white people?" If the negro was allowed the same chance or the same wages as his white brother, then we could to some extent join with the above in asking, why? But few of the many colleges and churches of the colored people are paid for. Could colored millionaires be expected within 35 years of freedom? No. There are some pursuing riches. In the State of Mississippi many colored persons owned "plantations." Only owned until some "heir" arise to force them by "law" to disown their property. This course of defrauding the colored people out of their stringent and honest earnings has existed many years. In consideration of these things we must conclude that donations amounting to enough to pay off debts of colored institutions, such as that of Payne Theological Seminary should be given by those who have received abundantly from the hands of a Father, who is rich in houses and lands, and holdeth the wealth of the world in His hand.

In sustenance of what has been said as a proof of the Southern colored labor being discounted, in that a minority of those who are fitted for all departments of work are not employed, we give a clipping from the *Detroit Evening News:*

"WAGES IN THE SOUTH.

"The Chattanooga Tradesmen has made a statistical examination of the white and colored labor of the Southern States. From the reports received from employers of nearly 100,000 hands, 58 per cent. of the employees are white and 42 are colored. One-third of the whole number are termed skilled laborers, only 10 per cent. of whom are colored.

"A remarkable fact brought out by this investigation is, that over 90 per cent. of these workmen are native born; 61 per cent of the employers said all their help were natives of the south, and only 19 per cent. reported that they employed as many as half natives and half of northern or foreign birth.

"The Tradesman says the reports show wages paid to skilled workmen average $2.51 to whites and $1.58 to colored. Unskilled whites average $1.14, and colored $1.02 per day. The highest rate per day reported was $4, paid to expert brickmakers. Foundrymen average $2.87 to whites and $1.62 to colored skilled workers. Carriage makers average $3.37; no skilled colored carriage makers are reported. In lumber making, white men average $2.78, and colored $1.62. Coal miners average $2.33 for whites and $1.62 for colored. Stone workers average $2.87 for whites and $1.42 for colored. Returns from a large number of miscellaneous occupations show that

skilled white workers average $2.43, and skilled colored men $1.70 per day.

"As compared with northern or foreign labor, 72 per cent. of the employers say their southern labor is as good; and 5 per cent. are in doubt.

"As to the comparative value of white and colored skilled labor, 46 per cent. of the employers say that it is about equal, 43 per cent. say that negro labor is inferior, and 11 per cent. are in doubt. As to common labor, 54 per cent. say the white and black are equal in efficiency, 29 per cent. that the colored labor is the better, and 17 per cent. that the colored men are inferior to whites.

"As to whether white and colored common laborers are improving in skill, 35 per cent. of the employers say that they are, 18 per cent. that they are not, 17 per cent that the whites are improving more than the colored, and 2 per cent. that the colored are improving more than the whites. Twelve per cent. think that colored laborers are improving, 4 per cent. that the whites are retrograding, and 12 per cent. no improvement in the colored laborers.

"That the white and colored laborers work together harmoniously is asserted by 58 per cent. of the employers, while 9 per cent. declare to the contrary. Twenty-one per cent reply affirmatively, with qualifications, and 12 per cent. say that harmony exists because whites overrule the colored workers."

Mr. Booker T. Washington advocates the cause of the race from an industrial point of view. His idea is valuable, and a condition to which many must concede, if high attainments in laborious circles are sought for. While Mr. Washington opens this channel, his labors must be preceded by a successful surveyor, so that the grounded implements may be put in action. "Why stand ye here all the day idle?" will not then be asked. Give positions suitable to the accomplishment of the colored men and women, boys and girls, and do away with Discrimination and Imposition of Injustice upon them. And then "let them alone."

Bishop Benjamin F. Lee stands foremost in the educational career, but always connects "work" with his platform. He is not satisfied with having filled the souls of men with the glorious tidings of the truth, but may very appropriately be called the "surveyor" for the physical wants of the people.

As to colored school teachers, etc., wages have been arranged to a low price. Some second grade teachers receiving from 25 dollars to 30 dollars per month; while some 3rd grade teachers receive a stipulated salary of from 10 to 15 dollars per month. Such a reduction in these cases can only be attributed to the unfair basis upon which the Boards of Education conduct the matters to favor their people and impede the progress of the colored race.

CHAPTER V.

"THE JIM CROW CAR."

The titles—Porters—Baggage-men—Coleman on the "G. P." 1892—Mississippi Delta.

Thus far we have seen that mal-treatment, deception in court, murdering, etc., are associated with the "Jim Crow Car," for the title itself means fraud —and all debauchery and injustice meted out to the colored race are material in the "Jim Crow Car." If we are to see the state of things as they are in various parts of the world, we are generally conveyed by "the train," as a preference when it is serviceable. In countries where there is no R. R. locomotives, the stages of higher civilization have not yet been reached. The first thing therefore, right or wrong, coming under our notice by the way, is on the "front."

The car in which the colored people are forced to ride is not marked "Jim Crow Car." Most every R. R. line has a different mark. As a rule "Colored" just over the entrance is marked on the cars designed for the colored people on the majority of roads. Other marks are: "For Colored People," "For Africans," (L. R. & M. R. R.) "Negroes," etc. Regular colored passengers are so well acquainted with the style and inferiority of their car, it is hardly ne-

cessary to read the sign. Carthage, Miss., is the country seat of Leake County, and 31 miles from the railroad lines. Many of its inhabitants have never seen a train. Nevertheless, most of the colored citizens have heard that the train is a pretty thing, but the colored folks must pay as much to ride as white passengers, and yet occupy an awful "Jim Crow Car."

Two colored men having decided to go off, came to Goodman to "take" the train. When the train arrived that they desired, the smoke prevented them from seeing the "colored" car near the engine. The colored passengers stood quite a distance from the site, refusing to board it, from the very reason that they feared the smoke. They admired the cars for white passengers. Although they had purchased their tickets, they decided to wait for the colored car to come along. After the train made its departure from the station, the two passengers went in hiding, being afraid that they would be arrested for not going up to the engine to get the car. Shortly a freight run in, and the two passengers fully concluded "that must be that 'Jim Crow Car' for the colored folks that we have heard so much talk about." With this idea they aimed to board it, when they were considered intruders, and were driven back to their homes.

PORTERS.

The porters on the passenger trains are chiefly colored men. Their politeness to passengers and distinct voices in calling stations, render their appro-

priateness for the position. They assist in handling baggage, but they are very rarely allowed to assist colored ladies on and off the train. They must get off possibly with babies in their arms and valises The porter is allowed to help white ladies off by taking the packages and valises to the platform of the depot, the brakeman and conductor being too aristocratic to do such, like most southerners are.

BAGGAGEMEN.

There are white and colored employees in large baggage rooms. The bulk of the white baggagemen abhor the idea of carrying a colored person's baggage to the baggage car, although it is checked. They sometimes order our intelligent colored gentleman to convey his own baggage to the train, especially if he looks like a "drummer" or travelling salesman.

A young man travelling for a colored Building and Loan firm was shot and killed at a little town south of Jackson, Miss, by a baggageman, who failed to compel him to carry his own baggage. The same style of marking on the door of railway cars for colored people is on the doors of waiting rooms. Colored department porters are employed to see that the black people go to their room, but is not allowed to resist white people putting packages and tying their dogs in the colored room. White convicts are held in the colored waiting rooms.

COLEMAN ON THE "G. P."

Concluding my Southern tour in 1892, I left Birmingham, Ala., Nov. 1st, 1892, bound for Durant, Miss. A large number of passengers were on board when we arrived at Coalsburg, a little town situated in the coal regions of Alabama, about 15 miles from Birmingham. The depot agent having flagged the train, ran to the conductor exclaiming :

"You can't go under two hours!"

"Why can't I?" asked the conductor. "Why that east-bound local have jumped the track."

A vast convict farm is under cultivation by colored convicts at Coalsburg. To see men and women tied together and working under "Bull whips" was a delightful scene to the white passengers, both men and women. The farm is about 60 yards from the depot.

All sorts and conditions of humanity can be seen. Strange it may seem to true man and womanhood, the fact remains that the brutalized state of the colored men and women is the pride of the Southern white element. The passengers stand with pleasure viewing the convicts as they are lashed and forced to do excessive work. A man who had been on the farm two years, charged with stealing a pair of boots, attempts to escape, when four white men on mules and a train of hounds pursue him. An old

ex-slave holder, standing in an attitude to take fine view of the proceedings, smilingly said : " That looks like old times." Convicts are treated more cruel than the slaves were during American slavery.

In fact the convict lease system is a method of revenge. There are some ex-slave holders who think that the " nigger " should be " paid " for fighting against the South for freedom, and now making it felt and known that they are a main factor in the common wealth. The convict farms have grown numerous in the Southern States as a means of binding the Negro down to white masters. Ned Richardson may justly bear the blame of causing more immorality and disgrace upon the colored race in his dominion than the slave trade in Africa to-day. The convict lease system is a satanic giant leading to degradation and ruin thousands of young men and women, whom, if they had privilege of a house of correction, would accomplish many good deeds for their country, and Christ, and the Church.

When Mr. D. L. Moody preached at Massey Music Hall, Wednesday, Oct. 13th, 1897, at 3 p.m., he elicited about 5,000 people. Before beginning his sermon he made some interesting statements concerning the great work which he had done in his efforts to supply the jails in the United States with reading matter to be put in the hands of the prisoners. Concluding, he asked his audience to contribute $500 to the same scheme in Canada. During his fervent and explicit remarks' the lamentable thought of the Con-

vict Lease system presented itself to me. Though recognizing the work done by the speaker in the United States as a source of spiritual help to the colored prisoners, as well as the white ones, I am convinced that such influential ambassadors of God as Mr. Moody and Mr. Jones could abate the intense evil in the promoters of working convicts, in a worse way than any farmer would dare to work his horses in the north and in many parts of the south.

At the close of Mr. Moody's service I was profoundly touched with the idea of asking the evangelist to protest against southern heathenism. When the rush to shake hands with the speaker had ceased, I could not refrain from simply asking Mr. Moody to preach against the convict lease system when he returned south.

The Democratic party in the State of Alabama, during the State election in 1892, made the convict lease system a plank in their platform, declaring that the diabolical system would be annihilated if the party gained the election. A political course in the pursuit of destroying such an influence and extensive evil will not do the amount of durable good as will the true Christian principles thoroughly stamped in the hearts of the upholders of such an inhuman system. One political party may abolish it, and another reinstate it. It is necessary, therefore, that the way of convincing the heathen abroad be given to erroneous and barbaric tendencies everywhere. About nine-tenths of the convicts in the United States are colored.

When I visited Fletz's farm about 3 miles south of Winona, Miss., in 1891, there were no whites. The convicts are not only leased to work on farms, but to railway contractors and mining companies, etc. The States tolerating the convict lease system receive a revenue.

"KIDNAPPED" ROCK DIGGERS.

Another incident noticeable on my journey to Durant, Nov. 1st, '92, is the fact that in the mountainous regions lying on both sides of the Georgia Pacific Road, rock suitable for railway bridges, etc. After receiving orders to leave Coalburg, the conductor gave the ordinary notice, "All aboard." I need not mention the various expressions of joy to be leaving a place of sorrow and woe. We had not gone more than 40 miles when a company of colored men, directed by a white man, boarded our train The porter immediately gave the information that trouble was awaiting the colored company, of which they were not aware. Just about 35 miles down the road is a path leading out to a rock den, they will have to go about 18 miles back in the woods to find it, there they will be worked. Some of them will be worked to death without a cent of pay, said the porter. When they arrived at their destination, the ghostly "thicket" at once attracted my attention. Like dumb driven cattle the men, with unbalanced luggage, over stepped the rugged mountain, some of whom will never return.

The Georgia Pacific Railroad is systematized strictly on Southern principles. Having roughly split bottom seats on the "colored car." While at the Union Station in Birmingham, Ala., enroute for Atlanta, Ga., we beheld such a pitiful condition of three colored ladies. Those who have not in any way come in contact with such a state of human life as seen in this car, can only marvel at our story, and question whether such moral character exists amid such a tremendous flow of offensiveness and pragmatical elements.

In the car with the three colored ladies were five convicts chained down to their seats in a most ghastly condition, and 15 white men. The ladies were compelled to hoist the windows in hope of shirking the profane language and intense heat and smoke from 15 cigars. The ladies were evidently professional ladies, and of no mean ability and character, but their high attainments were depreciated, being told abruptly, "Go in that car there, that's the nigger car." Many ministers and other representative colored men are smokers per force. They must ride in cars with the lowest smoking classes, but when the smokers are through, retire to the "white car." Many persons who would never smoke, are forced to smoke to protect their system during their ride in a car filled with deathly odor.

MISSISSIPPI "DELTA."

The real state of affairs in the Mississippi

"Delta" or "Bottoms," are unknown to those who have not travelled the plantations and rivers, viewing the situation of the people as they are. Indeed many parts of that turbid valley are inhabited by a people whose object is to humiliate the farmer as did the slave holder in his time. Newspapers and other mediums of spreading the happenings abroad are not used. This dismal section of country lies about 50 miles west of the Illinois Central Railroad, separated from Arkansas by the Mississippi River. There are two other smaller rivers, viz.: Yazoo and Tallahatchie. On the banks of these rivers are colored immigrants from many southern States, with the hope of bettering their condition.

Soon after slavery many men, women and children, exiled to the Mississippi Delta, the employers, to curtail railroad expenses, put the emigrants in freight box cars, after getting them a distance from their homes. Their present condition is grievous and miserable, some plantations having as many as 500 employees and a white family. The agents are what the overseer has once been. The general environments are such that even 500 persons must stoop to the command of 4 or 5 men. Some laborers have not had a payment for their work. They are furnished with pickled pork and corn bread for food, but few of them are allowed to have money. Wooden cheques from five cents and upward are paid to those who pay to the Church. In this case the cheques are only good at the plantation store. That which 25 cents could profitably buy in the Dominion of Canada

or the northern States, costs one dollar at the "plantation store." Cotton is the chief product; and owing to the unfavorable atmosphere the colored people are told that whiskey must be used to prevent sickness. In this way many unfortunate persons are misled to the degraded habit of drinking excessively.

East Mississippi is usually called the "Hills" by the inhabitants of the swamp. When any one succeeds in making good his or her escape, it is by the "underground railroads," or a similar channel to that of the abolitionist in securing colored men and women into Canada in the days of slavery. Mr. Mark Coleman, brother of the author of these facts, has been and is to this day operating the underground railway line on the Yazoo River. His beginning of this movement was attended with many experiences which attended the rugged way of the beloved white men and women who sympathized for the black man to the extent of devising a road on which he could reach the safe shores of Canada.

An investigation of the oppressed people in the Mississippi Delta is necessary, and is solicited. The high water of 1897 revealed a part of the destitute cases near the rivers and railroads, but "Wild Woods," and a host of other obscure islands have never been heard from. The ways of right cannot be properly diffused among the people of color in the Mississippi "bottoms." The word of the Lord should have free course. Any instruction leading up to higher morality and Christianity is impeded. The Arkansas

side of the valley is chiefly barren ; especially that being parallel with the Little Rock and Memphis railroad. The labor record of the Negro has grown ever since the landing of 20 at Jamestown, Va., in 1619. "He has made America what it is," for this reason the colored people of many Southern States have been solicited to settle in this vast watery territory along the L. R. & M. R. R. In view of the hardships which befell those in Mississippi Delta, the Negro refuses the offer. The refusal of the Negro to occupy the Arkansas desert is looked upon by his enemies as being slothful. But this view of the Negro is commonly taken when he is shrewd enough to shirk danger. The Oklahoma movement in 1892 was upheld by the colored Southerners with a hope of reaching a home where equal rights would be imparted to all. Since their settlement in Oklahoma, they have fallen victims to the mob and rope bands of white men, who have made it a famous event to enter the homes of the black men and overpower them with war arms, and commit rape on their wives and daughters. Bishop Turner, in defence of his race, gave advice that they should protect themselves. This advice was given in the Voice of Missions, missionary organ of the A. M. E. Church. Numerous Northern newspapers endeavored to put the entire South against the godly Bishop for attempting to protect *the ladies* of his race from being destroyed by night mobs. The Bishop's *idea* of family protection in many *unfriendly* localities is commendable. The Indians in the Oklahoma regions and elsewhere have always protected their families. 25 white citizens of

Oklahoma were killed by Indians in Jan., 1898, by way of race *protection*.

CHAPTER VI.

IGNORANCE OF DECENCY AND LIMITED CHRISTIANITY.

There can be no better method of emphasizing and clearly establishing the facts which have been stated on the various subjects preceding *this*, than to end syllogistically :

(1) It is obvious that the colored race equals the white race in decency. They could not wash their white sister's clothes without washing for themselves. They could not cook decently for the white families' hotels and other public places, if they were not suitable for the position. Thousands of young men and women graduating annually, in all the professions and branches of labor, warrant the fact that the colored people cope with the white people in intellectual and industrial progress.

(2) Although about one-half of the colored population of the United States are followers to some denomination, yet the so-called Christian white people

of the south, both pulpit and pew, limit Christianity to themselves and own house.

(3) In consideration of these things, we must conclude that eating, riding and social gatherings among the white people is not a desire of the colored race, and all previous conceptions of such are erroneous, and will be rectified when our southern white brethren reach a higher civilization and pure Christianity.

"For the President, Senate and Congress to stand still and allow any State in the Union to incorporate laws conflicting with the Constitutional rights of any of its citizens, is to me a fact that the national government is too weak to last long."—REV. S. T. TWIGLER, Marion, S. C., Nov. 12, 1897.

An immense volume would be required to write one-fourth of the lynches in 1892 93—saying nothing of the other evil. The urgent demand for this book has contracted it. Other volumes on the questions embodied in this book may follow this agent of peace, equal rights, and prosperity.